

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION
3 UNITED STATES OF AMERICA,) Case 1:20-cr-18
4 Plaintiff,)
5 v.) Alexandria, Virginia
6 ROBERTO CARLOS CRUZ MORENO,) February 22, 2022
et al.,) 9:10 a.m.
7 Defendants.) Volume 1
8) Pages 1 - 177

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10 TRANSCRIPT OF TRIAL
11 BEFORE THE HONORABLE ANTHONY J. TRENGA
12 UNITED STATES DISTRICT COURT JUDGE
13 AND A JURY

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17 PRADO, SPANISH INTERPRETERS

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1 (The jury is not present.)

2 THE CLERK: Criminal Case 1:20-cr-18, *United*
3 *States v. Roberto Carlos Cruz Moreno, Kevin Perez*
4 *Sandoval, Marvin Torres, and Jose Rosales Juarez.*

5 Counsel, will you please note your
6 appearances for the record.

7 MR. MURPHY: Good morning, Your Honor.
8 Nicholas Murphy, Nicholas Patterson, and Amanda Lowe on
9 behalf of the United States.

10 THE COURT: Good morning.

11 MR. WALSH: Good morning, Your Honor. Thomas
12 Walsh on behalf of Roberto Cruz Moreno, who is present
13 in court, Judge.

14 MR. CONTE: May it please the Court. Joseph
15 Conte on behalf of Kevin Perez Sandoval. Good morning,
16 Your Honor.

17 THE COURT: Good morning.

18 MR. KRISCHER: Good morning, Your Honor.
19 Adam Krischer on behalf of Jose Rosales Juarez, who is
20 present.

21 THE COURT: All right.

22 MR. OATES: Good morning, Your Honor.
23 Jonathan Oates on behalf of Marvin Torres, who is
24 present.

25 THE COURT: All right. Welcome, everyone.

1 We're prepared for trial. I have a number of
2 issues that I want to go through, including some of the
3 motions that have been recently filed. Other than
4 those, are there any other issues the government wants
5 to take up?

6 MR. MURPHY: Not that the government is aware
7 of, Your Honor.

8 THE COURT: All right. Defense counsel, any
9 other preliminary issues you want the Court to take up
10 at this point?

11 MR. WALSH: I don't think so. No, Your
12 Honor.

13 MR. OATES: Your Honor, I'm sorry. At the
14 last moment, I filed a request to allow my computer to
15 come in.

16 THE COURT: I signed that.

17 MR. OATES: Thank you, Your Honor. I
18 appreciate that.

19 THE COURT: Also, let me recognize our
20 interpreters. Thank you for your service here today.
21 If you would, identify yourself and be sworn, please.

22 INTERPRETER ROMAN: Teresa Roman, federally
23 certified court interpreter.

24 INTERPRETER DEUTSCH: Miriam Deutsch,
25 federally certified court interpreter.

1 (The interpreters affirm.)

2 THE COURT: Have each of you satisfied
3 yourselves that you and these defendants are able to
4 communicate?

5 INTERPRETER ROMAN: Yes, Your Honor.

6 THE COURT: All right. Very good.

7 Let me first take up an issue that was
8 partially addressed by way of pretrial motions and I
9 think was highlighted by some of the suggested *voir*
10 *dire* that one counsel has asked for. The Court had
11 previously severed Count 16 relating to the immigration
12 charge against -- I believe it was Mr. Juarez.
13 Count 15 also alleges against Mr. Moreno, that he was
14 an alien in possession of a firearm.

15 Mr. Murphy, how do you see that factoring
16 into any other charge in the case?

17 MR. MURPHY: Well, as the Court noted,
18 Count 15 against Cruz Moreno is not a severed count,
19 and the government would have to put forth evidence
20 establishing that he wasn't a legal alien.

21 Counsel for Defendant Rosales Juarez raised
22 an issue with respect to Government's Exhibit 25-12,
23 which is a Facebook conversation between defendant
24 Rosales Juarez and a coconspirator who will be a
25 cooperating witness testifying for the government.

1 That conversation does not refer to Defendant Cruz
2 Moreno.

3 THE COURT: I understand that. You have a
4 separate count in Count 14 against Mr. Moreno for
5 possession of a firearm in connection with a drug
6 trafficking offense. It just seems to me that 15
7 really is an outlier with respect to the rest of the
8 case.

9 Go ahead.

10 MR. MURPHY: Is 15 referring to -- I
11 apologize. I don't have the Indictment in front of me.
12 Is 15 the possession of the firearm, Your Honor?

13 THE COURT: By an illegal alien.

14 MR. MURPHY: That is very much not an outlier
15 in the case, Your Honor. That firearm was recovered on
16 April 20, 2019, a little over a month after the
17 shooting of Victim 2 in this case. That firearm, the
18 government's evidence will show at trial, was the exact
19 same firearm used to shoot that victim in the case.

20 THE COURT: Well, it seems to me that
21 evidence would be admissible in any event irregardless
22 of Count 15. I'm just concerned about interjecting the
23 immigration issue into the case when it really has no
24 relevance to any of the other charges. I don't see how
25 the government is prejudiced, frankly, by severing that

1 count, as well as 16.

2 MR. MURPHY: Well, Your Honor, as you just
3 stated, that evidence would be admissible anyway. So
4 that evidence is going to come into trial whether or
5 not that count is severed or not.

6 THE COURT: Right, but not his immigration
7 status.

8 MR. MURPHY: No, Your Honor.

9 THE COURT: Right. All right.

10 MR. MURPHY: Then with respect to the exhibit
11 identified by Defendant Rosales Juarez, the government
12 has already redacted that exhibit to redact the portion
13 of that exhibit in which he says -- I believe the term
14 is like deported or something like that. That exhibit
15 otherwise would be admissible from the government's
16 perspective because it discusses his involvement in the
17 very crime before the Court, Your Honor.

18 THE COURT: All right. The Court on its own
19 motion is going to sever Count 15. It will be tried
20 separately.

21 Let me deal with these motions. We have
22 Mr. Murphy's motion for counsel to proceed out of
23 order. That's consistent with what the Court had
24 suggested to counsel. That motion will be granted. I
25 assume you-all have conferred among yourselves about

1 how to proceed with respect to various witnesses.

2 Let me take up Defendants Torres' and
3 Juarez's motion to exclude uncharged murders, which
4 relates to the July 24 murder of Julio Urrutia in
5 Alexandria and the December 2016 murder of Christian
6 Rivas in Dumfries.

7 Who would like to argue that one?

8 Mr. Oates.

9 MR. OATES: Yes. Good morning, Your Honor.
10 Jonathan Oates on behalf of Marvin Torres.

11 Having received much more discovery in this
12 case, as well as, you know, what the government expects
13 expert witnesses to testify to -- they're also going to
14 call a witness, Sergeant Claudio Saa, who is going to
15 be an expert in MS-13. I believe we received several
16 transcripts from his previous testimony opining about
17 MS-13, that it's an international organization, sort of
18 how they work and operate and the structure.

19 That combined with the evidence that we know
20 that is applicable to these defendants about two
21 attempted murders, as well as a completed murder in
22 July 2017, I think any additional evidence about
23 murders that are outside of the scope of the Third
24 Superseding Indictment that don't involve or have
25 really any connection to these defendants is

1 cumulative. It's prejudicial, and it doesn't really
2 have any probative value in showing what the government
3 needs to show.

4 So based on that, Your Honor, we would ask
5 that the government exclude evidence about those
6 murders. They're not relevant, and they're cumulative,
7 frankly, as to the overall evidence.

8 THE COURT: Well, I'm not sure they're
9 cumulative. They, obviously, relate to the underlying
10 charged pattern of racketeering activity. The question
11 I have is what kind of foundation the government is
12 going to lay that these murders are associated -- and
13 this may relate to the expert testimony -- but the
14 murders committed by these people were associated with
15 the same enterprise as the enterprise that these
16 individuals are charged with. That just goes to the
17 structure of the enterprise.

18 But let me hear from Mr. Murphy or other
19 counsel.

20 MR. MURPHY: Yes, Your Honor. As the Court
21 is aware from the government's filing on this, the
22 government has a burden to prove beyond a reasonable
23 doubt that MS-13 is an enterprise that was engaged in
24 racketeering activity. While I appreciate, you know,
25 the defense counsel venturing their opinions as to how

1 the government should go about proving those elements
2 beyond a reasonable doubt, it is not up to them to
3 determine how the government can satisfy its burden to
4 demonstrate that MS-13 is an enterprise engaged in
5 racketeering activity.

6 THE COURT: As I understand it, based on the
7 brief information the Court has been provided on these,
8 these two murders in 2014 and 2016 were committed by
9 members of a clique other than the clique that these
10 defendants are accused of belonging to.

11 MR. MURPHY: That's correct, Your Honor.

12 THE COURT: As I indicated, I assume you're
13 going to lay a foundation that the enterprise -- even
14 though they're different cliques, the enterprise is, in
15 fact, the same. I think you're going to have to do
16 more than simply establish that they both refer to
17 themselves as MS-13.

18 MR. MURPHY: Understood, Your Honor.

19 THE COURT: All right. Thank you.

20 I'm going to deny the motion without
21 prejudice to reconsidering it once I hear the
22 government's foundation that they lay with respect to
23 those two other murders. It clearly relates to, as I
24 understand the government's theory, the pattern of
25 racketeering activity with respect to the enterprise

1 that's charged in several of these counts.

2 Let me take up the government's motion to
3 preclude cross-examination of cooperating witnesses on
4 the basis of uncharged prior bad acts, which is
5 Document No. 310. These are the murders in
6 El Salvador.

7 MR. MURPHY: Correct, Your Honor. As the
8 Court noted and as counsel raised, the government
9 intends to introduce evidence that MS-13 was a
10 racketeering enterprise -- excuse me -- an enterprise
11 engaged in racketeering activity by demonstrating that
12 pattern of racketeering activity via two murders that
13 occurred in the Eastern District of Virginia and via
14 witnesses who had direct participation in those
15 murders.

16 What the government's motion, however, seeks
17 to preclude is those witnesses are from El Salvador.
18 They were MS-13 gang members, remained MS-13 gang
19 members before they came to the United States. And via
20 the disclosures made by the government, the government
21 identified that each of those individuals relayed
22 information that they had participated in other bad
23 acts that were not charged in El Salvador, a different
24 country, not in this district.

25 It's the government's position that --

1 THE COURT: But according to the government,
2 the same enterprise?

3 MR. MURPHY: Correct, Your Honor. But
4 they're uncharged acts in a different country, and so
5 it's the government's position that while it is
6 certainly fair to inquire about charges or convictions
7 by which these individuals have participated in, there
8 is no basis to inquire on cross-examination about
9 uncharged criminal conduct in a different country, Your
10 Honor.

11 THE COURT: The only aspect of this that
12 occurs to me deserves consideration is with respect to
13 their motivation for cooperating. As I understand it,
14 they will be testifying as cooperating witnesses.

15 MR. MURPHY: Correct, Your Honor.

16 THE COURT: Obviously, they hope to get some
17 benefit from that. The benefit they hope to get, I
18 suspect, is evaluated from their perspective based on
19 the exposure they face and certainly at sentencing, I
20 would think, all their conduct would be relevant
21 conduct whether it occurred here or in El Salvador.

22 MR. MURPHY: That may be true, Your Honor,
23 but we're not dealing with those individual sentences
24 before the Court.

25 THE COURT: No, but you're dealing with their

1 motivation to cooperate.

2 MR. MURPHY: The government will be
3 addressing via direct their motivation to cooperate,
4 including the fact that they are seeking, for example,
5 reductions in their sentences, including, for example,
6 that they had been -- that there had been discussions
7 and conversations about the Witness Protection Program.
8 So that would certainly be addressed on direct.
9 Certainly, there is every ability by defense counsel to
10 address on cross those motivations.

11 But again, the relevance of, you know,
12 uncharged crimes in El Salvador that might come up at
13 their sentencing before, you know, their judge here in
14 the district really isn't a basis to include that
15 material in the trial because they're not on trial --
16 or they're not at their sentencing in which that
17 information would be relevant. That would be included
18 in their PSRs that go in front of the sentencing court,
19 but it's no reason to engage in that line of
20 questioning here before the Court where the jury should
21 be focused on the charged acts, which they will be
22 testifying concerning here at trial, and any charged
23 crime for which they've actually been convicted here in
24 this country, not uncharged crimes which have not been
25 the subject of any conviction in El Salvador.

1 THE COURT: All right. Who would like to
2 respond to this?

3 Mr. Walsh.

4 MR. WALSH: I'd like to respond to that.

5 So as the Court recognizes, on
6 cross-examination, we can get into the issue of their
7 cooperation, the reason why they cooperated.

8 THE COURT: I will tell you: I'm not sure it
9 helps to bring out that these cooperating witnesses
10 committed other murders as part of the government's
11 enterprise that they're claiming is here, but go ahead.

12 MR. WALSH: It's a double-edged sword. The
13 issue becomes this: If they're cooperating because
14 they don't want to be deported for a couple of reasons.
15 They're either going to get killed when they're
16 deported, or they're going to be arrested and
17 prosecuted for murders. So that gives them the
18 incentive to say what the government wants them to say,
19 to make false statements, to make inconsistent
20 statements. So I think it does go to that. It is a
21 double-edged sword because it puts out the violent
22 nature of the alleged gang. But on the other hand, I
23 can't remember the witness talking about having prior
24 versions. Either he is going to go back and get killed
25 or be arrested and prosecuted. I think it was four

1 murders he was alleged to be involved in, which goes
2 right to the motive of why they want to cooperate and
3 stay in the United States and not be deported and have
4 the government help them and everything else. They're
5 going to say whatever the government wants to hear.

6 THE COURT: All right. Thank you.

7 Anyone else for the defense?

8 (No response.)

9 THE COURT: All right. Mr. Murphy, anything
10 else you want to say on this?

11 MR. MURPHY: I just want to note --

12 THE COURT: I'm sorry. Did we have another
13 defense counsel?

14 Yes, Mr. Krischer.

15 MR. KRISCHER: Thank you, Judge.

16 I just wanted to add. Just with the criminal
17 enterprise instruction that is not to be used to
18 determine any of our clients' guilt, not to suggest
19 what the government should do. But any concern about
20 the jury being confused could also be addressed through
21 an instruction that any testimony elicited regarding
22 uncharged conduct should only be judged as to their
23 veracity.

24 Not to keep repeating, but again, it's the
25 stakes that become important. If all they're going to

1 do is be deported, that's one thing. But if they're
2 going to be deported and prosecuted in their own
3 country, that's something entirely -- but a jury
4 instruction would solve the problem that the government
5 is talking about.

6 THE COURT: All right. Mr. Murphy.

7 MR. MURPHY: Just two quick points on the
8 deportation issue. As defense counsel is aware, each
9 of these individuals is serving a life sentence for the
10 crimes that they committed in this district. So they
11 are not -- there is not a scenario at this point in
12 time where they are going to be released from prison
13 and deported to El Salvador. Certainly, the defense
14 has not established at this point that they would be
15 deported and prosecuted in El Salvador for crimes that
16 occurred years ago, Your Honor. So there's no basis --
17 at this point, this is entirely speculative with
18 respect to whether there would be two individuals who
19 are serving life sentences would be deported to
20 El Salvador and then, if and when that should happen,
21 they would be prosecuted by government authorities in
22 El Salvador for crimes that occurred years ago, Your
23 Honor.

24 THE COURT: We're talking about one witness?

25 MR. MURPHY: Two witnesses, Your Honor.

1 THE COURT: Two witnesses.

2 MR. MURPHY: Yes.

3 MR. WALSH: If I may respond?

4 THE COURT: Yes.

5 MR. WALSH: One witness -- and I have to look
6 through my notes -- is not serving a life sentence. He
7 is a cooperating witness. He's, I assume, a strong
8 witness for the government against us. He's involved
9 in both attempted murders, and he is doing no jail
10 time. And he's asked for papers from the government
11 not to be deported. I think it's because he has a
12 chance of getting killed or prosecuted. I don't know.
13 I think it's fair for us to ask him and get into that.

14 He is not serving a life sentence at all. As
15 a matter of fact, I think -- he's a juvenile prosecuted
16 with 179 days in jail with 179 suspended. Yet, he
17 committed both attempted murders.

18 THE COURT: All right. I think that the
19 conduct of these individuals, including their conduct
20 in El Salvador, is relevant to their motivation to
21 cooperate and could be viewed as affecting their
22 willingness to testify and what they testify to with
23 the hopes of getting benefit in connection with the
24 sentencing and deportation issues. So the Court is
25 going to deny the government's motion.

1 Let me take up a related one, and that is the
2 motion to preclude cross-examination concerning an
3 unresolved internal administrative investigation. I
4 read the opposition.

5 Mr. Murphy, it's unclear to me who we're
6 talking about and what we're talking about.

7 MR. MURPHY: With respect to the OPR
8 investigation, Your Honor?

9 THE COURT: Yes.

10 MR. MURPHY: This is a government witness,
11 Forensic Analyst Jeff Wise, with HSI. He conducted
12 cell phone extractions in this case, Your Honor.

13 THE COURT: Oh, I see. He is not a
14 cooperating witness.

15 MR. MURPHY: No. And the government
16 vis-a-vis fulsome in its *Giglio* disclosures disclosed
17 the fact that he had an ongoing internal investigation
18 that was not relevant to his veracity and had no
19 relation to this case. The government disclosed that
20 he filed a whistleblower complaint on a completely
21 unrelated matter. There is an OPR investigation
22 concerning whether or not the information he disclosed
23 was consistent with HSI's policies and regulations. It
24 bears no relevance in this case, but the point is --

25 THE COURT: Right. This is all unadjudicated

1 at this point.

2 MR. MURPHY: Correct. And that's the point.
3 Whether it's relevant to this case or not is the point.
4 It is not a final finding of any adverse behavior on
5 the part of Mr. Wise. So they are not permitted to
6 inquire about nonfinal, unadjudicated ongoing
7 investigations. That was the point of the government's
8 motion, Your Honor.

9 THE COURT: All right.

10 Who wants to respond to this, if anyone?

11 Mr. Krischer.

12 MR. KRISCHER: Thank you, Judge.

13 That was my response. You know, I think what
14 we just learned now is more information than was
15 provided to defense counsel, that it was regarding --
16 whether or not he followed regular policies. That's
17 not information I had at the time that I filed the
18 motion.

19 However, again, I'm not sure what those
20 policies are, but I'm sure there are also policies
21 related to the analysis that he did. If there's a
22 question about whether or not he is following some
23 policies, certainly --

24 THE COURT: Well, you can get into that
25 without getting into the fact of an internal

1 investigation.

2 MR. KRISCHER: That's correct, Judge.

3 Again, that information was not provided to
4 counsel. All we had was this information that he had
5 difficulty concentrating and there was an OPR
6 investigation. So it was difficult to agree to that or
7 not oppose it without the information provided today.

8 THE COURT: All right. The Court is going to
9 grant the government's motion and not permit
10 cross-examination based on that internal administrative
11 investigation.

12 Defendant Juarez's motion to redact
13 information pertaining to immigration status, I think
14 the government has indicated that's already been done
15 with respect to the exhibit that would reference that.
16 So that motion is moot.

17 The government's request for judicial notice,
18 any objection from defense counsel on that?

19 (No response.)

20 THE COURT: The Court will grant that motion
21 to take judicial notice that the Counties of Prince
22 William, Fairfax, and the City of Manassas are in the
23 Eastern District of Virginia; Eastern Daylight Time is
24 four hours behind Coordinated Universal Time, and
25 Eastern Standard Time is five hours ahead of Universal,

1 UTC, Time.

2 Let me take up Torres' first motion in limine
3 to exclude irrelevant evidence of prior bad acts, which
4 relates to Facebook messages.

5 MR. OATES: Thank you, Your Honor.

6 Mr. Torres is charged with conspiracy to
7 distribute cocaine in Count 5. The Indictment goes on
8 to say also conspiracy to distribute marijuana from the
9 period of time from January 2019 to August 2019. The
10 government has introduced exhibits that it plans to
11 introduce showing marijuana, but basically pictures of
12 marijuana going back and forth with another person in
13 early to mid-2017. Based on the charge that he has,
14 they aren't relevant to any charge that he has in the
15 conspiracy to distribute cocaine or marijuana from
16 January 2019 to August 2019.

17 In the government's response, they state that
18 it's something that's part of the racketeering scheme
19 that begins in 2017, and it's encompassed by that. I
20 don't think that -- I mean, the government has to
21 lay -- in order for those things to be admissible, the
22 government has to lay the foundation that any Facebook
23 messages about marijuana in 2017 were related to the
24 gang and that Mr. Torres was even participating in the
25 gang around that time and that any pictures of

1 marijuana sent through Facebook were related and in
2 advance of the gang. So without that foundation, Your
3 Honor, we would ask that the Court exclude those
4 exhibits.

5 THE COURT: How many exhibits are there?

6 MR. OATES: There's a lot. I mean, there's,
7 frankly, approximately 50 to 60 pages of Facebook
8 records sort of going back and forth.

9 THE COURT: You want excluded the reference
10 to marijuana and the pictures of the marijuana baggies;
11 is that right?

12 MR. OATES: Yes. I mean, any reference to
13 marijuana or the pictures going back and forth in the
14 baggies, correct.

15 THE COURT: All right. Mr. Murphy or other
16 counsel?

17 MR. MURPHY: Yes, Your Honor. To be clear,
18 what counsel is referring to are eight Facebook
19 exhibits which contain messages between Marvin Torres
20 and other individuals on Facebook. To be very clear,
21 not all of those messages discuss drug distribution.
22 Some of those messages discuss, for example,
23 identifying rival gang members and, for example, using
24 a machete to attack rival gang members. To be clear,
25 not all of the exhibits within those eight exhibits --

1 THE COURT: As I understand, he's talking
2 only about pictures and messages regarding marijuana
3 between June and July of 2017.

4 MR. MURPHY: There is one picture of a bag of
5 marijuana that is exchanged in those eight exhibits.
6 To be very clear, the government has never alleged that
7 those exhibits pertain to his conspiracy to distribute
8 narcotics in 2019.

9 THE COURT: Right.

10 MR. MURPHY: What the government very clearly
11 set forth in the RICO and VICAR charges with which
12 Marvin Torres is charged in this case is that MS-13 is
13 an enterprise that engages in racketeering activity and
14 has done so since at least 2017. The Indictment
15 identifies drug distribution very specifically as a
16 racketeering activity that MS-13 engages in.

17 That evidence, whether or not Marvin Torres
18 was involved or not, would be indicative of MS-13's
19 involvement in the racketeering activity of drug
20 distribution, particularly in light of the fact that
21 the government will be admitting evidence -- seeking to
22 admit evidence at trial of Marvin Torres' own
23 statements, in which he identified himself as a *chequeo*
24 in MS-13 for over two years. And this was in 2020.

25 The government's evidence will establish that

1 you don't walk into MS-13 as a *chequeo*. There are
2 ranks, two ranks, in fact, that you have to achieve
3 before you become a *chequeo*.

4 So the government's evidence will very
5 clearly establish that in 2017, Marvin Torres was
6 associated with the MS-13 gang and was distributing
7 marijuana on behalf of the gang.

8 But, again, the point of those exhibits is
9 not about Marvin Torres. It's that those involved and
10 associated with MS-13 participate in the racketeering
11 activity of drug distribution. And on that basis,
12 there is no basis to exclude the exhibits the
13 government seeks to admit, Your Honor.

14 THE COURT: What specific exhibits are we
15 talking about? Do you have the numbers?

16 MR. MURPHY: These are Exhibit Nos. 28-3A
17 through 28-10A, I believe -- 10B, Your Honor.

18 THE COURT: All right. I'll look at those
19 exhibits and make a ruling.

20 All right. Let me take up the motion to
21 exclude the photos of the victims. It would be, I
22 believe, Defendant Moreno's motion, 306.

23 MR. WALSH: That is correct, Your Honor.

24 THE COURT: Before we do that, Mr. Murphy,
25 how many photos are we talking about? Are we talking

1 about photos of each of the victims?

2 MR. WALSH: I can explain to the Court.

3 THE COURT: All right.

4 MR. WALSH: So Government Exhibit 4-5A
5 through 4-5X.

6 THE COURT: Hold on. 4-5A through?

7 MR. WALSH: 4-5X.

8 THE COURT: All right.

9 MR. WALSH: Guevara, he is the victim in the
10 2017 murder.

11 THE COURT: He's the Charlottesville murder.

12 MR. WALSH: The Charlottesville murder.

13 It's 24 pictures. The government responded
14 that I was moving to exclude both crime scene photos
15 and autopsy photos. My motion was generally for
16 autopsy. I've tried some cases before. Generally,
17 autopsy pictures don't come in.

18 THE COURT: These are the autopsy photos that
19 you've mentioned?

20 MR. WALSH: Yeah, those are the autopsy.

21 And I think there's repetitive or cumulative
22 crime scene photos that we should address. The other
23 one is Government's 59-5A through P, and that's Rivas'
24 autopsy pictures. There's 16 of those, Judge.

25 THE COURT: Whose are they? Guevara's?

1 MR. WALSH: No. It's Rivas. That the 2016
2 Christian Rivas murder, Judge.

3 THE COURT: Right.

4 MR. WALSH: So it's basically 24 photos and
5 then 16 photos.

6 The Court -- I, obviously, did research on
7 this, and the government is right that they have a
8 right to show various factors of the murder. However,
9 some of these photos are just -- they're cumulative,
10 and the relevance is outweighed by the substantial
11 unfair prejudice. They appear to be -- I don't want to
12 say -- but they are going to arouse the sympathy and
13 prejudice of the jury. They're just offensive. One of
14 the pictures is basically a liver in a bowl. I know
15 it's pictures taken because there's a laceration in the
16 liver. But at this point in time, the medical
17 examiners will be testifying. So they can describe
18 what they need as to the injuries.

19 If the Court looks at these pictures, again,
20 they're cumulative and highly prejudicial. You know,
21 one of -- as we've all seen autopsy pictures, the scalp
22 is cut open. They peel it back. They cut the skin
23 back, peel it back, go in the scalp, take the brain
24 out. There's one where the torso is just wide open.
25 Obviously, those are, you know, pictures taken during

1 the autopsy. You know, the victim wasn't cut open with
2 a torso ripped open. That was done by the medical
3 examiner as she or he -- I think it's all shes --
4 proceed.

5 So my basis is it's going to be shocking to
6 the jury. It's cumulative. Like I said, the ME is
7 going to be a witness. The ME can describe to the jury
8 the injuries without having to display these gruesome
9 pictures.

10 THE COURT: All right. Mr. Murphy.

11 MR. MURPHY: Your Honor, as the government --

12 THE COURT: Do you agree that that's the
13 universe of the photos that we're talking about,
14 Exhibits 4-5A through 4-5X and 59-5A through P?

15 MR. MURPHY: It's also the government's
16 understanding -- and it was certainly put forth in the
17 motion anyways -- that he was seeking to exclude crime
18 scene photographs, which would also include
19 Government's Exhibits 1-1 --

20 THE COURT: I understand he's not pursuing
21 that.

22 MR. WALSH: Well, Judge, I've got to be
23 honest with you. I did put it in the motion, but there
24 are some gruesome crime scene photos. I didn't
25 identify those for the Court. If the Court gives me a

1 second, I can go back and look at them. I have the
2 exhibits here.

3 THE COURT: All right. Go ahead, Mr. Murphy.

4 MR. MURPHY: So it is the government's
5 understanding that he is seeking to exclude not only
6 just autopsy photos but crime scene photographs, which
7 would be Government's Exhibits 1-1A to 1M, as well as
8 1-2A to 1M.

9 As the government set forth in its motion,
10 however, not every exhibit identified on the
11 government's exhibit list does the government intend to
12 introduce at trial.

13 For example, some of those medical examiners
14 may need to review some of those photos, which are
15 never entered into evidence but which to testify about.

16 THE COURT: I understand.

17 MR. MURPHY: That's really the necessity for
18 several of those pictures. As the government says, we
19 intend to introduce an extremely limited subset of
20 autopsy and crime scene photos. I believe we've
21 identified seven crime scene photos --

22 THE COURT: All right.

23 MR. MURPHY: -- that identify the victim.
24 Specifically, Marvin Rivera Guevara and where he is
25 recovered and an autopsy photo that identifies the body

1 bag with his name identifying him as the individual in
2 the autopsy. Similarly, with respect to the autopsy in
3 Government's Exhibit 59 raised by counsel pertaining to
4 Christian Sosa Rivas. The government intends to
5 introduce evidence that that is, in fact, Christian
6 Rivas' body in the body bag for which the autopsy was
7 recovered. It doesn't intend to show in order to shock
8 the jury's conscience or anything of that matter. The
9 actual autopsy photos.

10 As the government noted, not every exhibit on
11 this list is going to be entered at trial, as the Court
12 is well aware. Some of those exhibits are necessary
13 for the individuals who are testifying to be able to
14 testify whether or not they are published to the jury
15 or admitted into evidence, Your Honor.

16 THE COURT: These would be used in connection
17 with the coroner's testimony?

18 MR. MURPHY: Correct, Your Honor.

19 THE COURT: All right.

20 MR. MURPHY: And the crime scene photos would
21 be specifically with respect to 1-1A to 1M and 1-2A to
22 1M would be used with respect to one of the cooperating
23 witnesses who was there on that crime scene and a
24 detective who was also there to investigate that crime
25 scene. So those photos would not be coming in through

1 the testimony of a medical examiner.

2 THE COURT: But you intend to offer into
3 evidence 1-1A through 1M and 1-2A through 1M?

4 MR. MURPHY: Seven of those photos between --

5 THE COURT: All right. What I'd like you to
6 do is if you could actually identify specifically,
7 before the witness testifies, the specific photos that
8 you want to enter into evidence, and the Court will
9 make a ruling on those.

10 MR. MURPHY: Sure.

11 THE COURT: All right. If you would, notify
12 defense counsel in advance as well of which ones you
13 are going to offer.

14 MR. MURPHY: If it's okay with the Court, we
15 will email the Court's clerk and CC counsel with the
16 photographs we intend to enter.

17 THE COURT: That would be great.

18 All right. Let me take up Torres' second
19 motion in limine to exclude evidence of prior bad acts
20 based upon the rank.

21 MR. OATES: Good morning again, Your Honor.

22 This was our motion to exclude sort of
23 blanket statements by some witnesses as to what
24 somebody needs to do in order to achieve a certain
25 rank. My understanding is that the government is going

1 to set forth and argue evidence that my client has
2 achieved the rank of *chequeo* within the gang.

3 Some of the witnesses that have identified
4 them state that -- or plan to testify that in order to
5 achieve that rank, in order to achieve the rank of
6 *chequeo*, that somebody had to have committed a murder
7 in the past. There's no evidence that my client has
8 committed a murder, but once the jury hears that, they
9 are going to improperly assume that my client has
10 committed some sort of murder in the past.

11 It's a prior bad act and a taint that, I
12 think, is going to be difficult for him to overcome and
13 them having to prove the case beyond a reasonable doubt
14 if the jury assumes, you know, without any foundation,
15 without any evidence, just sort of a blanket statement
16 that in order for him to have that rank, he must have
17 committed a murder in the past.

18 I believe that there may be some evidence of
19 that from the government's expert witness, Sergeant
20 Saa. More specifically, from a particular witness who
21 is going to testify about one of the old murders. It
22 just is --

23 THE COURT: What are you expecting that
24 witness to say relative to your client?

25 MR. OATES: We're expecting that witness to

1 say that in order to attain the rank of *chequeo*, that
2 somebody has to have committed a murder.

3 THE COURT: But not specifically as to
4 Mr. Torres?

5 MR. OATES: Not specifically as to
6 Mr. Torres, but there's going to be evidence that
7 Mr. Torres is a *chequeo*. Therefore, he has committed a
8 murder in the past.

9 THE COURT: All right.

10 MR. OATES: Thank you, Your Honor.

11 THE COURT: All right. Mr. Murphy.

12 MR. MURPHY: This motion is somewhat unusual
13 insofar as counsel has identified a prior bad act --
14 that should have been identified as 404(b) -- without
15 specifying what exactly the prior bad act that his
16 counsel has -- there's going to be evidence that his
17 defendant, Mr. Torres, has committed. As counsel just
18 said, there is no evidence that the government intends
19 to present that Mr. Torres committed a murder.

20 THE COURT: Except by implication.

21 MR. MURPHY: Right. And so there is no
22 404(b) by implication, Your Honor. As the government
23 has set forth repeatedly, frankly, in responses to
24 Mr. Torres, his client, Mr. Torres, has been charged
25 with engaging in racketeering activity with an

1 enterprise that engages in racketeering activity.

2 There will be evidence of the rank structure of that
3 enterprise because the law requires the government to
4 prove that an enterprise is an organization with
5 structure.

6 And for that reason, multiple government
7 witnesses will testify about the enterprise's
8 organization and structure, which includes the ranks of
9 the MS-13 gang and which includes, in addition to
10 having to prove the organization and structure, very
11 specifically VICAR requires that the government prove
12 that acts of violence are committed in order to
13 maintain or increase one's position in that
14 organization.

15 Therefore --

16 THE COURT: That's what's required by way of
17 proof as to the conduct of a specific defendant,
18 correct?

19 MR. MURPHY: Correct, Your Honor.

20 THE COURT: Right.

21 MR. MURPHY: And so the government will
22 establish through multiple witnesses that MS-13 gang
23 members commit violent crimes, to include murder, in
24 order to maintain or increase their positions in the
25 gang.

1 There is no way for the government to
2 establish that evidence without telling the jury what
3 the commission of violent crimes does with respect to
4 moving up or not within the organization of MS-13,
5 which VICAR very specifically requires that you have to
6 demonstrate violent acts are committed in order to
7 maintain or increase one's position in the gang.

8 But setting that aside, what counsel is
9 specifically seeming to refer to here is a *Giglio*
10 statement that the government provided as part of the
11 *Giglio* disclosure, again, which circles back to the
12 uncharged murders in El Salvador, that when he became a
13 *chequeo* in El Salvador, he became so by being involved
14 in a murder in El Salvador.

15 The government doesn't intend to -- had no
16 intention of -- because we had just submitted a motion
17 to exclude getting into murders in El Salvador, the
18 government had no intention of eliciting from that
19 individual whether or not he committed a murder in
20 El Salvador in order to become a *chequeo*. The
21 government intends to elicit information that he was a
22 *chequeo* when he came to the United States. That is
23 separate and apart from what we provided as *Giglio* to
24 defense counsel, and we also filed a motion to exclude
25 that *Giglio* very specifically, Your Honor.

1 THE COURT: The Indictment does not allege
2 that Torres committed a murder or conspired to commit a
3 murder in order to achieve the rank of *chequeo*. He was
4 already a *chequeo*.

5 MR. MURPHY: The Indictment alleges that
6 Mr. Torres conspired to commit a murder and that the
7 reason that the violent crime was committed was in
8 order to increase or maintain one's rank within the
9 gang.

10 THE COURT: Right. The government alleges
11 that he already had that rank when he committed the
12 crimes alleged in Counts 1 and 4.

13 MR. MURPHY: Correct, by his own statement.

14 The government alleges that in order to
15 maintain, which is one thing. So to maintain the rank
16 of a *chequeo* or increase one's rank from *chequeo* to
17 homeboy, you have to commit violent acts, Your Honor.

18 THE COURT: It seems to me that there is a
19 concern about blanket testimony that in order to
20 achieve the rank of *chequeo*, you need to have committed
21 a murder, which is not the predicate for either of
22 these two counts. It seems to me that the witness
23 could certainly talk about the structure of MS-13 and
24 the different ranks and that people achieve those ranks
25 through committing various criminal activities without

1 specifically attributing to the *chequeo* rank the need
2 to commit a murder.

3 How would that materially limit you?

4 MR. MURPHY: Well, for one, it's not various
5 activities by which they move up in rank. The
6 witnesses will very clearly testify that it is a
7 specific activity.

8 THE COURT: For that particular rank.

9 MR. MURPHY: One specific activity that you
10 need to commit in order to move up in rank in MS-13,
11 and that is to commit murders. We're not talking about
12 you can go deal drugs or you can extort some money and
13 move up in rank. That is not how the rank structure or
14 maintaining or increasing position, which the
15 government has to prove at trial, occurs in MS-13. So
16 that would significantly limit the evidence that the
17 government -- the ability for the government to prove
18 its elements when in order to move up in rank in MS-13,
19 you have to commit a specific violent activity.

20 THE COURT: Right. You can get all that in
21 without specifically attributing to the rank of *chequeo*
22 a murder. You could say that in order to move up, as I
23 understand the testimony, the members are expected to
24 engage in certain conduct and to achieve higher ranks,
25 they have to engage in more serious crimes, including

1 murder. It seems to me that lessens the implication
2 directly attributable to what would be viewed as
3 Mr. Torres' prior conduct.

4 It seems to me that you can ask the question
5 in a way that gets out all the information you want
6 which minimizes the prejudice that I appreciate exists.
7 It's simply saying, If you're a *chequeo*, you've had to
8 commit a murder.

9 MR. MURPHY: Right. So as the government
10 said, we don't intend to elicit that testimony from the
11 witness identified by Mr. Oates pertaining to
12 Mr. Torres. What we intend to elicit is testimony from
13 a gang expert and those who are involved in MS-13 --

14 THE COURT: No. I understand.

15 MR. MURPHY: -- that in order to move up in
16 rank in MS-13, you have to commit murders. The
17 government --

18 THE COURT: That's fine. But I think if it
19 stops there, you minimize the implication that -- you
20 don't necessarily make a connection to a *chequeo*, which
21 I think is the concern.

22 MR. MURPHY: Right. As I said, the
23 government doesn't intend to elicit that information
24 from that witness. What the testimony will be is that
25 in order to become a homeboy, who is an official member

1 in the gang, you have to commit a murder or murders
2 depending on your clique. That will be the testimony.

3 THE COURT: Are any of these defendants
4 alleged to be homeboys?

5 MR. MURPHY: No.

6 THE COURT: All right. It seems to me we can
7 work through this in a way that minimizes the prejudice
8 while allowing the government to bring out what you
9 want.

10 MR. MURPHY: As the government represents, we
11 don't intend to ask that witness whether or not he
12 committed a murder to become a *chequeo*. Again, it was
13 an incident that occurred in El Salvador. It's the
14 government's position that that's not relevant to the
15 issues before the Court, Your Honor.

16 THE COURT: What I want to avoid is specific
17 testimony, specific blanket testimony that in order to
18 have achieved the *chequeo* rank, you have to have
19 committed a murder.

20 MR. MURPHY: Understood.

21 THE COURT: All right. Mr. Oates, any more
22 on this?

23 MR. OATES: I think that alleviates my
24 concern, Your Honor.

25 You know, in the *Giglio* materials, you know,

1 there is one witness who said that the prospective
2 member must commit a murder in order to achieve the
3 rank of *chequeo*. Everybody else says that you must
4 commit a murder in order to achieve the rank of
5 homeboy. If the government is not going to elicit any
6 evidence or testimony that in order to be a *chequeo*,
7 you have to commit a murder -- which it sounds like
8 they don't -- then I think that --

9 THE COURT: All right. I think we can get
10 through this.

11 MR. OATES: Thank you, Your Honor.

12 THE COURT: All right. Let's take up
13 Defendant Juarez's motion to exclude government's
14 translation exhibits of wiretaps generally and
15 Government's Exhibit 18-25A specifically.

16 Mr. Murphy, have you reviewed whether you-all
17 can agree that someone is saying "son" instead of
18 "sos"?

19 MR. MURPHY: Your Honor, to be very clear,
20 there is no basis to exclude that particular exhibit or
21 the entire swath of T-3 audios because he has an expert
22 who has translated a word differently from the
23 government's --

24 THE COURT: Right. I'm just talking about
25 that one specific.

1 MR. MURPHY: So with respect to that one
2 specific --

3 THE COURT: Have you-all gone back and looked
4 at it?

5 MR. MURPHY: So the translator has translated
6 what he has translated. He will testify to his
7 translations, and he will certainly be testifying to,
8 you know, during his direct that there are different
9 interpretations for different words. He's not an MS-13
10 gang member. So he is doing these translations based
11 on the context as he reviews it.

12 There will be every opportunity for
13 Mr. Krischer to cross-examine that particular witness
14 as to whether or not this particular word in this
15 particular exhibit was translated correctly. There
16 will be every opportunity for Mr. Krischer to present
17 his own expert.

18 THE COURT: My only question was in light of
19 this motion, have you gone back to your translator and
20 asked them to just review that one word?

21 MR. MURPHY: No, the government has not
22 because it's the government's position that he has
23 translated what he's translated and he will testify to
24 those translations. And to the extent that there is,
25 you know, any issue, those can be -- any issue in any

1 of the translations that he's made in this case, those
2 will be addressed by counsel as they see fit during
3 cross-examination or via any other expert that they
4 would like to bring in concerning the translations in
5 this case. The government is not now going to have a
6 translator change the translation because his expert
7 disagrees with what that word means, Your Honor.

8 THE COURT: All right. Mr. Krischer.

9 MR. KRISCHER: Thank you, Judge.

10 And just to be clear -- because I think the
11 government misstated my motion -- I did not move to
12 exclude the T-3 evidence. I moved to exclude the
13 demonstrative evidence, which specifically is going to
14 be the A -- so the series 18, 20 -- the 18 series and
15 the 19 series. The A exhibits are the translations,
16 and the B exhibits are the actual audio. Nowhere did I
17 file a motion arguing that the audio should not be
18 admitted. In fact, this Court already ruled on that
19 with Defendant Tovar, that the T-3 audio is admissible.

20 Specific is whether or not this demonstrative
21 evidence comes --

22 THE COURT: What's the demonstrative
23 evidence?

24 MR. KRISCHER: It's going to be the actual
25 transcript of the audio.

1 THE COURT: The transcript. I see.

2 MR. KRISCHER: The exhibit has two columns.
3 One is a transcription of the recording, and the other
4 is English translation.

5 Again, it's a misstatement to say that I
6 disagree with their expert. If he believes that the
7 word was "son," then he properly translated as "they."
8 That's not the issue.

9 THE COURT: Why is that material?

10 MR. KRISCHER: Well, because very
11 specifically, the statement at issue is whether or not
12 one of the once-upon-a-time codefendants is saying
13 specifically with regard to Mr. Rosales Juarez whether
14 or not he is or is not in the gang.

15 So the way that it's translated is he didn't
16 explain. So it's someone that suspects or thinks that
17 they are from Mara and they don't know they are not.

18 Objectively, that makes no sense, they don't
19 know they are not. The proper -- not the proper
20 translation. What the actual recording says is, So
21 someone thinks, suspects or thinks you are from Mara
22 and they don't know you are not.

23 And his participation and involvement in the
24 gang is directly at issue in the case.

25 THE COURT: Right.

1 MR. KRISCHER: So we're not asking the
2 government -- we're not saying "son" doesn't mean
3 "they." What we're saying is that the demonstrative
4 evidence is incorrect.

5 THE COURT: All right.

6 MR. KRISCHER: And the demonstrative evidence
7 is not the evidence. It's the audio recording.

8 THE COURT: Other than this one word, what's
9 the other objection?

10 MR. MURPHY: Well, I have only reviewed the
11 statements with regard to my client. But this is
12 material. And so the issue is going to be that when or
13 if the jury gets all of these transcriptions, then they
14 are not going to necessarily rely on their own memory
15 of what the recording said or what the court
16 interpreter translated as the testimony comes in but
17 instead replace that recollection, replace the
18 translator's interpretation with the government's own
19 recollection of what the recording says.

20 THE COURT: All right.

21 MR. KRISCHER: So there's really no value to
22 this other than to suggest to the jury this is what was
23 actually said.

24 THE COURT: Right. You have your own
25 translator that would be prepared to testify on this

1 issue?

2 MR. KRISCHER: I certainly could. Again, the
3 issue is not the translation. The issue is what the
4 actual recording says.

5 THE COURT: Hold on. The interpreters need a
6 moment.

7 All right.

8 MR. KRISCHER: So I just want to be very
9 clear, Judge, that that becomes the issue.

10 THE COURT: It's a factual issue.

11 MR. KRISCHER: It's a factual issue.
12 However, the government is going to introduce evidence
13 stating what the content of the recording, which is
14 separately going to be admitted, says.

15 THE COURT: All right. Mr. Murphy.

16 MR. MURPHY: Just very briefly. As defense
17 knows and as, I think, the Court is aware, the audios
18 are predominantly in Spanish. When I say
19 predominantly, I mean 95 percent in Spanish. The
20 government has no intention of playing Spanish audios
21 to the jury at trial. The government doesn't believe
22 that everyone on the jury is going to speak Spanish.

23 So when he says he's not seeking to exclude
24 the T-3 audios because he's only seeking to exclude the
25 demonstratives, that's not correct. He is seeking to

1 exclude the T-3 evidence because the T-3 evidence the
2 government will produce and enter at trial so the jury
3 can understand what the T-3 audios mean because they're
4 in Spanish are the transcripts themselves, Your Honor.

5 To be clear, he has been provided those
6 audios. He has an expert who can review those audios.
7 If there's a factual discrepancy with respect to the
8 audios, he is more than welcome to have his expert
9 testify about the audios and what the proper
10 translation, as he sees it, is, Your Honor.

11 To be very clear, the demonstrative
12 transcripts are the T-3 evidence that will be entered
13 in this case because they are the English translations
14 of those materials, which is what the jury will
15 understand.

16 THE COURT: All right. You intend to present
17 your translator, correct, as a witness?

18 MR. MURPHY: Correct, Your Honor.

19 THE COURT: All right. It seems to me what
20 we're dealing with is simply a factual issue as to
21 what's on the tape and what it means. The evidence is
22 going to be from the translator based on what he heard
23 and how he interprets that. You would have the
24 opportunity to put your translator on.

25 I am going to direct the government, though,

1 to ask the translator to just review that one word to
2 make sure he is confident in his testimony. If he is
3 not, he can say that it may be something else. In any
4 event, he should review that word before he testifies.

5 MR. MURPHY: Understood.

6 And given the motion, Your Honor, it was the
7 government's full expectation to specifically ask the
8 translator about that particular exhibit and whether or
9 not there were any alternate translations of that
10 particular word in the exhibit.

11 THE COURT: All right.

12 MR. KRISCHER: I'm sorry, Judge. And I don't
13 mean to belabor the point, Judge. But what I
14 understood the Court to say is that the Court wants the
15 government to have their witness go back and review
16 that particular recording. Not to say, well, yes, it's
17 possible that "son" --

18 THE COURT: Right. That's what they are
19 going to do. You would have the opportunity to
20 cross-examine and put your own translator on and argue,
21 as you have, that their translation, if that in fact is
22 what the translator continues to say it means, doesn't
23 make any sense. The jury, if they want, they can
24 listen themselves and see if it, according to their
25 ear, means "sos" or "son."

1 MR. KRISCHER: Thank you, Judge.

2 THE COURT: All right. Let me take up
3 Defendant Torres' motion to withdraw his request to
4 exclude agent narratives during his interview.

5 Mr. Murphy, in light of this motion, you're
6 going to put on the whole interview, or do you want to
7 stick with what you've presented to the Court?

8 MR. MURPHY: No, Your Honor. I mean, the
9 government is going to put on its case as the
10 government sees fit. We don't intend to put on the
11 entire interview. To be frank, given his motion, the
12 Court ordered us not to put in the entire interview.
13 That's how we've now prepared our case to do, Your
14 Honor.

15 THE COURT: All right. Mr. Oates.

16 MR. OATES: Your Honor, when I filed that
17 motion, I mean, I had been in the case for
18 approximately a couple of months. I was looking at
19 this case and going through all the discovery and
20 looking at things through a very, very small peephole
21 as to what I thought the evidence would show. There
22 was a statement. I filed a motion on the statement
23 that I thought was proper. The judge denied the
24 voluntariness but granted about the general narrative.

25 THE COURT: Right.

1 MR. OATES: As I see the case now and as I
2 now have a full view of what this case looks like, it
3 is important as to the strategic part but also what I
4 believe are inconsistencies on the parts of the agents
5 writing their reviews, writing their reports, and what
6 happened to the video, that the entirety of that
7 interview be played.

8 As I think the Court probably recalls,
9 there's a lot of information that's being given to
10 Mr. Torres. He is sort of being taught that. That's
11 information -- that's important to explain the totality
12 and the context of any statements that he does do. But
13 it's also incredibly important to -- it's incredibly
14 important to show what this case is about and a large
15 part of what our theory of this case is about, Your
16 Honor.

17 I know that the Court made -- at the hearing
18 date, the government argued very stringently against
19 excluding it based on that second reason of sort of a
20 narrative. We've received a ton of information within
21 the last few days, Your Honor. We've gotten new stuff
22 now. It is a strategic decision that I couldn't have
23 made before, only recently, to be able to change our
24 position as to that.

25 So I don't think the government is going to

1 be prejudiced in any way. I know that they've prepared
2 the case. But it's a small change to play the entirety
3 of the interview rather than just the portions. So the
4 government isn't really prejudiced. If anything, it's
5 for the reasons that I stated in my motion. It is
6 Mr. Torres who is being prejudiced, and that was my
7 motion, to exclude those parts and those narrative
8 parts.

9 We are now asking the Court to withdraw our
10 objection to that. It's important and necessary for
11 our defense to play the entirety of that interview.

12 Frankly, it's Mr. Torres' decision, and it's
13 Mr. Torres' -- it doesn't impede on the government. It
14 impedes on Mr. Torres. Mr. Torres is wishing to waive
15 that objection, Your Honor.

16 If the government chooses to use Mr. Torres'
17 statements, we would ask that the rule of completeness
18 show that they play all of these statements and the
19 statements made towards him that elicited those
20 comments, Your Honor. I think that that's fair.

21 Thank you.

22 THE COURT: All right. Anything further on
23 this, Mr. Murphy?

24 MR. MURPHY: The rule of completeness, Your
25 Honor, requires that the statements that are entered be

1 entered with enough context in order to understand the
2 statements. That was what the Court's order directed.

3 At the time, the Court asked the government
4 to provide the statements in the context that were
5 necessary to add the -- so that the jury could
6 understand what those statements mean. The government
7 did that on February 17, as directed by the Court.

8 Now, today, we are being told that the rule
9 of completeness now requires that the government change
10 its own strategy which, apparently, Defendant Torres
11 can impede on on his own whim at this point in time to
12 effectuate the rule of completeness, Your Honor.

13 The statements and contexts surrounding those
14 statements that the government has already provided
15 satisfy fully the rule of completeness with respect to
16 the statements that the government intends to enter.
17 The government has a prerogative to enter its evidence
18 in its case as it sees fit, and the defense has a
19 prerogative to enter its own case and its own theories
20 as it sees fit.

21 There is nothing -- he has the full
22 transcript. He has the full audio. There is nothing
23 stopping him from entering whatever he wants from that
24 statement in his own case. There's no legal right he
25 has to impede on the government's ability to enter its

1 case as it sees fit consistent with the order of this
2 Court, Your Honor.

3 THE COURT: All right. Anything further on
4 this?

5 MR. OATES: I mean, the government is arguing
6 that they have the right to pick and choose which parts
7 of the interview that they play. The Court said
8 specifically in its ruling that -- and at the end, it
9 says, The Court will therefore exclude such statements
10 except for those necessary to understand the substance
11 of Torres' answers to specific questions.

12 So to understand the substance, the exact
13 response. So that's, you know, a sentence or two
14 before that. What we're asking and what is
15 significant, now that I understand the full amount of
16 information in this case, is that there's context that
17 is incredibly important and necessary in order to
18 understand Mr. Torres' statement. So it's not just
19 necessary to understand the substance; there needs to
20 be the context.

21 You know, frankly, you know, the government
22 is not prejudiced. I mean, the government is correct.
23 I have the transcripts. I have the full video, and I
24 can certainly cross-examine them on that. But it was
25 our request to limit that interview. We're withdrawing

1 that request now for important strategic defense
2 reasons having seen everything, and there really is no
3 prejudice to the government.

4 Thank you, Your Honor.

5 THE COURT: I understand the defendant's
6 position, and I also understand that the evaluation of
7 cases evolves over time. Nevertheless the Court did
8 rule in response to defendant's motion. The government
9 prepared and submitted an exhibit based on that. The
10 defendant's motion to withdraw its objections on the
11 day of trial, I think, is late, frankly. The
12 government would be prejudiced at this point. I am
13 going to deny the motion. The defendant can certainly
14 put in all or part of the remaining video during its
15 case. You can certainly cross-examine the agent.

16 All right. The motion is denied.

17 MR. OATES: Thank you, Your Honor.

18 THE COURT: I believe that's it. Are there
19 any others that we haven't addressed?

20 (No response.)

21 MR. OATES: I don't know if the Court wanted
22 to take up the issue of additional *voir dire*.

23 THE COURT: I've looked at the supplemental
24 submissions. Frankly, most of those have already been
25 covered in the questionnaires. As I indicated to

1 counsel, the Court is going to conduct *voir dire*,
2 basically require counsel to make their strikes based
3 on the information that's in those questionnaires. I
4 am going to ask a few additional questions. If there's
5 anything in particular you would like me to consider
6 specifically, I'll hear you on it.

7 MR. OATES: Understood. Thank you, Your
8 Honor.

9 THE COURT: All right. Is there anything?
10 Any one or two questions that you feel strongly about
11 that haven't been asked?

12 I am going to inquire about whether any
13 members of the panel have been affected or experienced
14 anything they attribute to gang activity and that kind
15 of thing. Other than that, I am going to require
16 counsel to rely on the answers that have already been
17 provided in these questionnaires.

18 MR. OATES: Certainly.

19 The Court's very brief indulgence, Your
20 Honor.

21 Your Honor, Question No. 5 I would ask that
22 the Court give. Question No. 5 is in this case, you
23 will hear allegations -- spelled here wrong -- you will
24 hear allegations that the defendants committed crimes
25 where they were members of MS-13. Is there anyone that

1 feels that a defendant is more likely to have committed
2 those crimes because he associates with members of
3 MS-13?

4 I think one of the -- this gets at, you know,
5 an important part. Obviously, there's Count No. 1,
6 which encompasses sort of everything, the entirety of
7 the racketeering charges, but then there are individual
8 counts. My client and the other defendants are
9 presumed innocent of those charges as well. The
10 government has to meet its burden beyond a reasonable
11 doubt, you know, for all of those charges as well.

12 The problem with the overall racketeering
13 charge and then the presumption of innocence on each of
14 the individual charges is that it sort of bleeds over
15 into, well, you know, he's involved in this
16 racketeering. He associates with other MS-13 members.
17 He probably, you know, is guilty of what else they're
18 charging him with. So, you know, this is a specific
19 question to come at that.

20 You know, there are some jurors who, frankly,
21 may say, look, if these guys are running around with
22 MS-13 and they're charged with being a part of MS-13,
23 then they're also probably guilty of -- or more likely
24 to be guilty of these other charges, and not apply the
25 presumption of innocence to each of the charges

1 individually, Your Honor.

2 THE COURT: I understand the concern. I hope
3 to address some of that in what I will ask the jury.

4 MR. OATES: Okay.

5 THE COURT: Why don't we hear what they have
6 to say.

7 MR. OATES: I'm sorry. I think Question
8 No. 8 also bleeds into that as well: Is there any
9 member of the panel who believes that a person is more
10 likely guilty of charges simply because they are
11 associated with members of MS-13?

12 If I could trade No. 9 over No. 8 -- No. 9.,
13 Is there any member of the panel who believes that a
14 person is more likely guilty of charges against them
15 because that person is a member of MS-13? I think that
16 also gets right to the heart of, you know, the
17 presumption of innocence, even for people alleged to be
18 members of MS-13. It spans through all of the
19 different charges and different counts.

20 THE COURT: All right.

21 MR. OATES: I would also ask that the Court
22 ask No. 10 and No. 11. No. 10, The defendants in this
23 matter are Hispanics. Anything that would prevent them
24 from considering the evidence fairly and impartially.

25 THE COURT: Both of those were specifically

1 asked on the questionnaires.

2 MR. OATES: And then No. 11, Is there any
3 member of the jury panel that knows or is acquainted
4 with another juror?

5 THE COURT: All right. I'll ask that one.

6 MR. OATES: Thank you, Your Honor.

7 THE COURT: Mr. Murphy, how much time did you
8 want for opening statement?

9 Oh, Mr. Krischer, you have something. I'm
10 sorry.

11 MR. KRISCHER: With regard to the *voir*
12 *dire* -- I just wanted to clarify the Court's ruling
13 with regard to immigration information being presented
14 to the jury. So there was a separate motion filed by
15 Mr. Rosales Juarez to exclude any reference. I had
16 highlighted the specific Facebook message, which the
17 government kindly has redacted.

18 But to the extent that any of the other
19 witnesses may address those, we just wanted to make
20 sure that the government instructs their witnesses that
21 they are not to raise or discuss any -- well,
22 specifically, Mr. Rosales Juarez's immigration status,
23 whether or not he was deported even if that's
24 responsive to a question that is inartfully asked.

25 THE COURT: I wouldn't expect to hear any

1 evidence about the immigration status of any of the
2 defendants.

3 Mr. Murphy, if for some reason you think you
4 are going to get into that, you need to raise it with
5 me beforehand.

6 MR. MURPHY: We understand the Court's
7 ruling, Your Honor.

8 THE COURT: All right.

9 MR. KRISCHER: Just with regard to the *voir*
10 *dire* then, Judge, Your Honor said you were going to
11 address attitudes towards MS-13. I think the last
12 three questions in my proposed *voir dire* very
13 specifically were asking questions about whether or not
14 any attitudes came specifically from publicity or the
15 community versus independent experience or personal
16 experience and then whether or not each of those two
17 sources of information would impact their ability.

18 So with regard -- I trust that the Court is
19 going to ask those questions.

20 THE COURT: In a fashion.

21 MR. KRISCHER: Very good. Thank you, Judge.

22 THE COURT: All right. Mr. Murphy, I'm
23 sorry. How much time for opening statement?

24 MR. MURPHY: Forty minutes should be
25 sufficient, Your Honor.

1 THE COURT: All right. I'll give the
2 defendants an equal amount of time. I suspect you
3 won't need that much.

4 Anything else before we bring the jury in?

5 We're going to bring around 70 juror members.
6 We're going to bring them all in at one time. I first
7 thought we would do it in two separate groups. I think
8 that's too needlessly complicated at this point. I
9 think we can comfortably do it with everybody here at
10 one time.

11 As I indicated earlier, the government gets
12 ten strikes and each defendant gets four.

13 We're going to have three alternates. I am
14 going to put in five. We're going to pick 12, and then
15 we're going to select another 5. The government will
16 get one strike. The defendants are going to have to
17 get together and exercise one strike. So we end up
18 with three alternates.

19 All right. The Court will stand in recess as
20 we bring in the jury.

21 (A jury is duly impaneled and sworn.)

22 THE COURT: Ladies and gentlemen, let me give
23 you some explanation of how we're going to proceed
24 here. Then we're going to take our luncheon break a
25 little earlier than we normally do.

1 Let me tell you how we're going to conduct
2 the trial. We're first going to begin each day at
3 9:30. We'll adjourn typically between 5:30 and 6:00.
4 My hope is that we won't go past 6:00, and we'll just
5 have to see how the evidence comes in. My intention is
6 to move this case along in as orderly and deliberately
7 as we can.

8 We'll take breaks in the morning at
9 approximately 11:00 and, as I said, a lunch break from
10 1:00 to 2:00 and a break in the afternoon around 3:30,
11 depending on how the evidence plays.

12 If any of you need a break at any other time,
13 just please raise your hand, and I'll accommodate you
14 as best as I can.

15 We're going to go ahead and recess for lunch
16 now. We'll reconvene at 2:00, at which time I'll give
17 you some preliminary instructions, and then we'll
18 proceed with opening statements.

19 We will sit each day during the trial. There
20 will be a couple of exceptions that I can tell you
21 about at this point. We will not sit during the
22 afternoon of March 3 or on March 4, which is a Friday,
23 and we will not sit on March 18, which is a Friday.
24 There may be other times as well, but at least I can
25 tell you that now.

1 Before I excuse you, I'll tell you for the
2 first time what I will tell you every time before I
3 excuse you, and that is, do not talk about this case
4 among yourselves until all the evidence is in, you've
5 been given instructions, and you've been excused to
6 begin your deliberations. As little as you know now,
7 don't speculate about what the trial is or what it may
8 be or what the evidence is or may be.

9 Also, it's important that you not, when
10 you're outside of the courtroom, do any research on
11 your own. If you hear things in the courtroom that
12 piques your interest, don't undertake to look on the
13 Internet to find out what people might be talking
14 about. Your obligation is to decide this case solely
15 on what you hear in the courtroom by way of evidence.

16 Also, don't communicate with your friends on
17 any social media about the case or your service as
18 jurors. That's important.

19 So with that, I'll excuse you until 2:00, at
20 which time we'll begin the trial.

21 Mr. Burns will show you where you can
22 adjourn.

23 THE COURT SECURITY OFFICER: I'll take care
24 of it, Your Honor.

25 THE COURT: All right. Thank you.

1 (The jury exits at 12:45 p.m.)

2 THE COURT: All right.

3 MR. WALSH: Your Honor, there's one other
4 thing I'd like to raise. If the Court would, when we
5 come back from lunch, tell the jurors that we can't
6 communicate with them either and we're not being rude.

7 THE COURT: I'll cover that in my preliminary
8 instructions.

9 MR. WALSH: Thank you.

10 THE COURT: I'll tell them not to take it out
11 on you if they see you taking a mad dash away from
12 them.

13 All right. Who is going to be your first
14 witness after opening, Mr. Murphy?

15 MR. MURPHY: We anticipate that it will be
16 Edgar Blanco Torres, Your Honor.

17 THE COURT: All right. Also, I'm going to
18 ask you to let defense counsel know the evening before
19 the morning what the order of witnesses are you expect.

20 MR. MURPHY: We'll certainly endeavor to do
21 so. We're doing a bit of reshaping --

22 THE COURT: I understand.

23 MR. MURPHY: -- in light of a witness getting
24 COVID as of today. We'll certainly endeavor to do so.

25 THE COURT: All right. Very good.

1 The Court will stand in recess until 2:00.

2 (Recess from 12:47 p.m. until 2:07 p.m.)

3 (The jury is not present.)

4 THE COURT: Are we ready to proceed?

5 MR. PATTERSON: Yes, Your Honor.

6 THE COURT: All right. Bring the jury out.

7 (The jury enters at 2:07 p.m.)

8 THE COURT: All right. Please be seated.

9 Ladies and gentlemen, now I'm going to give
10 you some preliminary instructions to guide you in your
11 participation in this trial. What I say now is
12 intended to serve only as an introduction to the trial
13 in this case. It's not a substitute for the detailed
14 instructions on the law, which I will give to you at
15 the close of the case and before you retire to
16 deliberate on your verdict.

17 It will be your duty to find from the
18 evidence what the facts are. You and you alone are the
19 judges of the facts. You are the judges of the facts.
20 You will then have to apply those facts to the law as
21 the Court will give it to you, and you must follow the
22 law whether you agree with it or not.

23 Nothing the Court may say or do during the
24 course of the trial is intended to indicate or should
25 be taken by you as indicating what your verdict should

1 be.

2 The evidence from which you will find facts
3 will consist of the testimony of witnesses, documents,
4 and other things received into the record as exhibits
5 and any facts that the lawyers agree to or stipulate to
6 or that the Court may instruct you to find.

7 Now, certain things are not evidence and may
8 not be considered by you, and I will list them for you
9 now:

10 First, the statements, the arguments, and the
11 questions by the lawyers are not evidence.

12 Secondly, the objections to questions are not
13 evidence. Lawyers have an obligation to their clients
14 to make objections when they believe evidence being
15 offered is improper under the rules of evidence. You
16 should not assume that the lawyer making the objection
17 is improperly trying to keep some pertinent information
18 from you, and you should not hold it against a lawyer
19 who makes that objection.

20 You also should not be influenced by the
21 objection or by the Court's ruling on it. If an
22 objection is sustained, that is, if the Court agrees
23 with the objection, you must not consider that
24 question, any partial answer to the question, or the
25 exhibit which was objected to.

1 If it is overruled, that is, that the Court
2 does not agree with the objection, then you treat the
3 answer or exhibit like any other.

4 If you are instructed that some item of
5 evidence is received for a limited purpose only, then
6 you must follow that instruction as well.

7 Next, the testimony that the Court has
8 excluded or told you to disregard is not evidence and
9 must not be considered.

10 Also, anything you may have seen or heard
11 outside of the courtroom is not evidence. It must be
12 disregarded. You are to decide this case solely from
13 the evidence presented here in the courtroom.

14 And in that regard, there are two kinds of
15 evidence. There's direct evidence and circumstantial
16 evidence. Direct evidence is direct proof of a fact,
17 such as testimony of an eyewitness. Circumstantial
18 evidence is proof of facts from which you may infer or
19 conclude that other facts exist. I will give you
20 further instructions on these as well as other matters
21 at the end of the case, but keep in mind that you may
22 consider both kinds of evidence.

23 Also, in considering the case, you will have
24 to make judgments about the believability and
25 credibility of witnesses' testimony. It will be up to

1 you to decide which witnesses to believe, which
2 witnesses not to believe, and how much of any witness'
3 testimony to accept or reject. In considering the
4 weight and value of the testimony of any witness, you
5 may take into account the appearance, attitude, and
6 behavior of that witness; the interest that that
7 witness may have in the outcome of the case; the
8 relationship that witness may have to any party in the
9 case; the inclination of the witness to speak
10 truthfully or not as you judge that to be; the
11 probability or improbability of the witness' statement;
12 and all other facts and circumstances in evidence.
13 Thus, you may give the testimony of any witness such
14 weight or value as you may determine the testimony of
15 such witness is entitled to receive.

16 Please pay careful attention to the testimony
17 of witnesses because, contrary to what you may have
18 seen on television, it is not possible to recall
19 witnesses after you begin your deliberations.

20 As you know, this is a criminal case, and
21 there are three basic rules about a criminal case that
22 you must keep in mind:

23 The first, as I've indicated previously, is
24 that each defendant is presumed innocent until proven
25 guilty. The Indictment brought by the government

1 against these defendants is only an accusation. It's
2 nothing more. It is not proof of guilt or anything
3 else. The defendants, therefore, start out with a
4 completely clean slate.

5 Secondly, the burden of proof is on the
6 government until the very end of the case. The
7 defendant has no burden to prove his innocence or to
8 present any evidence or to testify. Since the
9 defendants have the right to remain silent, the law
10 prohibits you from arriving at your verdict by
11 considering whether or not the defendants may have
12 testified.

13 Third, the government must prove each
14 defendant's guilt beyond a reasonable doubt. I will
15 give you further instructions on this point, but bear
16 in mind that in this respect, a criminal case is
17 different from a civil case.

18 There are 14 different crimes that are
19 alleged against these defendants, some collectively,
20 some individually, or in combination with some of the
21 others. I'm sure the government will outline what
22 those are, and I'm not going to do that in any detail
23 now.

24 Let me by brief summary tell you that two
25 crimes are charged against all of the defendants:

1 One is a conspiracy to participate in a
2 racketeering enterprise, in violation of what we call
3 the Racketeer Influenced and Corrupt Organizations Act
4 or RICO statute, charged in Count 1 of the Indictment.

5 The second charge against all of these
6 defendants is a conspiracy to distribute cocaine and
7 marijuana charged in Count 5 of the Indictment.

8 The defendants are also charged separately in
9 various combinations with other crimes related to those
10 two conspiracies, which, again, I believe the
11 government will outline for you in opening statement.
12 I'm not going to instruct you now in detail on what the
13 elements of each of those are or what the government
14 must prove beyond a reasonable doubt. I will do that
15 after you hear all the evidence.

16 But I do want to give you a very brief
17 explanation on some of the terms that you will hear a
18 lot about since you might better follow the evidence as
19 it's presented.

20 The first is the term "conspiracy." A
21 conspiracy is simply an agreement between two or more
22 people to do something unlawful or to do something
23 lawful by unlawful means.

24 Here, as I mentioned, all the defendants are
25 charged with two conspiracies: Conspiracy to violate

1 the RICO statute by participating in what we call a
2 RICO enterprise and also a conspiracy to distribute
3 cocaine and marijuana. As I indicated, some defendants
4 are also charged separately with other conspiracies in
5 violation other aspects of the RICO statute.

6 Because that RICO statute figures so
7 centrally in this case, I also want to define for you a
8 couple of terms you will hear a lot about and which you
9 will no doubt perhaps find familiar to you.

10 The first is, as I've mentioned before, the
11 term "RICO enterprise." Briefly summarized -- and you
12 will get more detailed instructions on this at the
13 closing -- a RICO enterprise is any group of
14 individuals associated in fact who join together for
15 the purpose of engaging in a common course of conduct
16 even though their association is not recognized as a
17 legal entity.

18 "Racketeering activity" is defined as, among
19 other things, murder, kidnapping, attempted murder, or
20 conspiracy to commit murder, in violation of the laws
21 of Virginia and drug trafficking in violation of
22 federal law.

23 This last term I'm going to mention is
24 "pattern of racketeering activity," which is defined as
25 at least two acts of racketeering committed within ten

1 years of each other.

2 Let me now say a few words about your conduct
3 as jurors:

4 First, I instruct you that during the trial,
5 you are not to discuss the case with anyone or permit
6 anyone to discuss it with you. Until you retire to the
7 jury room at the end of the case to deliberate on your
8 verdict, you simply are not to talk about the merits of
9 this case.

10 Second, do not read or listen to anything
11 touching upon this case in any way. If anyone tries to
12 talk to you about it, bring that to the Court's
13 attention immediately.

14 Third, I know many you use cell phones and
15 the Internet and other tools of technology. You must
16 not use those tools to communicate electronically with
17 anyone about the case. This includes your family and
18 friends. You may not communicate with anyone about the
19 case on your cell phone, through email, BlackBerry,
20 iPhone, text messaging, Twitter, through any blog or
21 website, through any chat rooms, and by way of any
22 other social networking websites, including Facebook,
23 MySpace, LinkedIn, Instagram, or YouTube.

24 Finally, it's very important that you not
25 form any opinion in this case until all the evidence is

1 in. You need to keep an open mind until you start your
2 deliberations at the end of the case.

3 If you want to take notes during the course
4 of the trial, you may do so. You should have now or
5 will be provided notebooks, but remember that sometimes
6 it's difficult to take detailed notes and still pay
7 attention to what the witnesses are saying at the same
8 time. So if you do take notes, please be sure that
9 your note-taking does not interfere with your listening
10 to and considering all the evidence.

11 Also, if you take notes, do not discuss your
12 notes with anyone before you begin your deliberations,
13 and do not take your notes with you at the end of the
14 day. Be sure to leave those in the jury room.

15 Also, if you do take notes, please understand
16 that your notes are not evidence and should not take
17 precedence over your own independent recollections of
18 the evidence. Remember that it's your own individual
19 responsibility to listen carefully to all the evidence.
20 For that reason, if you do not take notes, you cannot
21 rely on anybody else's note-taking, and you cannot give
22 any responsibility to someone who is taking notes to
23 remember the evidence. That's an obligation that each
24 of you have separately from anyone else.

25 Let me now explain to you how the trial will

1 proceed. After I'm finished with these preliminary
2 instructions, the government will make an opening
3 statement, which is simply an outline to help you
4 understand the evidence as it comes in. After the
5 government makes its opening statement, the defendants
6 may but do not have to make an opening statement.
7 Opening statements are neither evidence nor argument.

8 After opening statements, the government will
9 then present its witnesses, and counsel for the
10 defendants may cross-examine them. Following the
11 government's case, the defendant may, if he wishes,
12 present witnesses, whom the government may
13 cross-examine. After all the evidence is in, the Court
14 will instruct you on the law.

15 Finally, the lawyers will present their
16 closing arguments to you in which they'll summarize and
17 interpret the evidence for you. After that, you will
18 begin your deliberations on your verdict.

19 I want to emphasize that no statement,
20 ruling, remark, or comment which I may make during the
21 course of this trial is to indicate in any way my
22 opinion as to how you should decide the case. It
23 wasn't intended to influence you in any way in your
24 determination of the facts.

25 At times during the trial, I may confer

1 privately with the lawyers and others about various
2 evidentiary procedural issues. During these
3 conferences both here at the bench and otherwise, it's
4 not our intention to hide anything from you but simply
5 to determine how certain issues will be handled and how
6 best to proceed. Please be patient as we do that.
7 We're only taking care to ensure that the trial is
8 being conducted fairly.

9 In that regard, it is important to me that
10 your time is used efficiently and that you not spend
11 significant amounts of time outside of the courtroom
12 during the trial. But there may be developments that
13 require matters to be heard outside of your presence.
14 I will do everything I can to keep this case moving
15 along to minimize the time that you spend outside of
16 the courtroom and to allow your time to be used
17 efficiently.

18 I've instructed the attorneys and the parties
19 that they are not to speak with you because it simply
20 does not look appropriate for one side or the other to
21 be speaking with any of you no matter how innocent or
22 trivial those conversations might be. So that if you
23 happen to be outside of the courtroom and you see one
24 of the lawyers -- once they have sight of you --
25 abruptly turn and walk away, don't hold that against

1 them. Don't think they are being discourteous. They
2 are simply following my instructions.

3 Until this case is submitted to you to begin
4 your deliberations, as I indicated earlier, you must
5 not discuss it with anyone at all, not even among
6 yourselves. After it is submitted, you must discuss
7 the case only in the jury room with all your fellow
8 jurors present.

9 Again, it's important that you keep an open
10 mind and not discuss any issue in the case until the
11 entire case has been submitted to you and you have
12 received the final instructions of the Court regarding
13 the law in which you must apply it to the evidence.

14 Again, your job is to decide all the factual
15 information in the case, such as who is to be believed,
16 who should not be believed. The Court will decide all
17 the legal questions in the case, such as what testimony
18 or exhibits are to be received in evidence and which
19 are not received. Please do not concern yourselves
20 with any of the legal questions that the Court may take
21 up.

22 Again, at the close of the evidence, I will
23 be able to give you your final and complete
24 instructions, which will be much more detailed than
25 these preliminary instructions, and which you must use

1 to guide you in reaching your decisions.

2 We will now proceed with the opening
3 statement from the government.

4 OPENING STATEMENT

5 MR. PATTERSON: Good afternoon, ladies and
6 gentlemen.

7 At the heart of this case is a murder and two
8 attempted murders. On July 3, 2017, Marvin Rivera
9 Guevara left the pizzeria where he worked in
10 Charlottesville, Virginia. He left with a man he
11 thought was a friend. He thought that he was going to
12 go with this friend to smoke marijuana and meet some
13 women. He did not know that this was going to be the
14 last night of his life.

15 This is Marvin.

16 Marvin did not know that he was being led
17 into a trap that would lead to his death at the hands
18 of members and associates of the Guanacos Lil Cycos
19 Salvatrucha clique of MS-13. This clique is also known
20 by its initials of GLCS. Marvin did not know about
21 GLCS's plan for him and that four members and
22 associates of GLCS were lying in wait for Marvin in a
23 car in a parking lot near the pizzeria.

24 You see, ladies and gentlemen, GLCS wrongly
25 believed that Marvin was a rival gang member. You'll

1 hear evidence that one of the most important rules of
2 MS-13, a rule that is strictly adhered to, is to attack
3 and kill rival gang members. You'll learn that this is
4 how individual gang members rise in rank or maintain
5 their rank and accrue power and respect in the gang.

6 During this trial, you'll hear from one of
7 these men who lied in wait to kill Marvin, Walter
8 Amaya. He is a cooperating witness with the
9 government. You'll learn that he and his fellow GLCS
10 members and associates were known by gang nicknames.
11 He'll tell you that his gang nickname was Pensamientos.
12 Pensamientos will tell you about GLCS's plot to lure,
13 ambush, and kill Marvin and how he participated in this
14 plot.

15 Mr. Amaya will tell you how he and three
16 other members and associates of GLCS followed Marvin in
17 Mr. Amaya's car as Marvin's coworker, also an associate
18 of MS-13, led Marvin to a remote area near Moore's
19 Creek. Mr. Amaya will tell you that after Marvin
20 arrived, he was led out of his car at gunpoint to a
21 location next to Moore's Creek where Marvin was
22 surrounded and ambushed by a pack of five MS-13 members
23 and associates.

24 Mr. Amaya will tell you how he and the other
25 four MS-13 members and associates hacked Marvin to

1 death with a machete and knives and laid him low. The
2 evidence will show that Marvin's attackers mercilessly
3 and repeatedly struck him over 140 times. They struck
4 him so hard that the machete they were using, its
5 handle broke.

6 Mr. Amaya will tell you that after they
7 murdered Marvin, they took a photograph of his dead
8 body and sent it to gang leadership to prove that they
9 had accomplished the ultimate act, that they had killed
10 a man. In other words, they took a trophy photograph
11 the way some hunters take photographs of animals that
12 they've killed.

13 Then they threw Marvin's body over the edge
14 of a high embankment and into the shallow creek bed
15 below.

16 You'll hear more about GLCS's plans to
17 brutally eliminate gang rivals and those they perceive
18 to have disrespected the gang. This time you'll hear
19 from a man who barely survived such an attack in
20 Northern Virginia after spending approximately a month
21 in the hospital recovering from gunshot and stab
22 wounds.

23 This is Elvin Pena Aguilera. He will tell
24 you what GLCS did to him on March 8, 2019. Elvin will
25 tell you that he was invited over to the home of a man

1 he considered to be like his little brother, David
2 Escobar. You'll learn that David Escobar is a *chequeo*
3 of the GLCS clique. Elvin will tell you that while
4 after he got to Escobar's house, three of David's
5 friends showed up in a car. Elvin was told that they
6 are going to smoke marijuana and get some food.

7 You'll learn that, once again, GLCS had a
8 plan to take a man's life and that all three of the men
9 who showed up at David Rivera's house planned to kill
10 Elvin and were members and associates of the GLCS
11 clique. You'll also learn that GLCS needed a way to
12 get Elvin from David Escobar's house to the scene of
13 the shooting, a remote location.

14 You'll learn that the man chosen to execute
15 GLCS's plan to kill Elvin was Defendant Roberto Cruz
16 Moreno, who knew that he was driving Elvin to his
17 intended brutal demise when he picked Elvin up from
18 David Escobar's house that night.

19 Elvin will tell you that he got into the car
20 with David Escobar and the three other men and was
21 listening to music on his headphones. Elvin will also
22 tell you that when he looked up, they were in a wooded
23 area with the house far away from them. Everyone
24 except the driver got out, and Elvin was told they were
25 going to smoke weed in the woods before getting food.

1 You'll learn that the four men walked into
2 the woods that night, but only the three GLCS members
3 and associates got back into Defendant Cruz Moreno's
4 car. Elvin will tell you that as they walked into the
5 woods, the man he thought was his brother and friend
6 suddenly pulled a gun on him and shot him four times,
7 including in his abdomen. Elvin will tell you that
8 after he was shot, one of the other men stabbed him
9 multiple times and tried to slit his throat.

10 The GLCS pack then left Elvin to die alone in
11 the cold, snowy woods as Defendant Cruz Moreno drove
12 his fellow GLCS members and associates to his home in
13 his warm car.

14 You'll learn that despite this brutal attack,
15 Elvin refused to die. He wouldn't submit to GLCS's
16 plan to kill him. When he was sure his attackers had
17 left, Elvin made his way towards the nearest house, and
18 when his wounds would not let him continue, he called
19 out for help. His call was answered by a neighborhood
20 man who had heard the gunshots and who helped him.

21 Elvin will tell you that as a result of this
22 attack, some of his fingers don't move. Because his
23 throat was cut, he has trouble speaking loudly. Elvin
24 will also tell you about the mental scars that are
25 still with him today. He has PTSD and had a

1 schizophrenic break.

2 You'll hear more about the violence
3 perpetrated by GLCS here in Northern Virginia from
4 another man who nearly lost his life following a
5 violent and brazen daylight attack by GLCS. This is
6 Norman Medina Sanchez. You'll hear evidence about what
7 it means for MS-13 to patrol and scout and how the 18th
8 Street gang tattoos that adorn Norman's body were chum
9 in the water for GLCS.

10 You'll learn that Defendant Marvin Torres
11 first scouted out and identified Norman as a gang rival
12 to his fellow GLCS members and associates. Torres took
13 and sent this picture to the gang in a Telegram group
14 chat. You'll learn that Defendant Torres took this
15 picture of Norman in the parking lot of the very same
16 laundromat where Norman was ultimately shot. You'll
17 hear evidence that Defendant Torres sent this picture
18 of Norman to the gang so that his fellow gang members
19 and associates could identify and kill Norman. Ladies
20 and gentlemen, that is exactly what GLCS tried to do.

21 You'll learn that on August 3 and 4, 2019,
22 Defendant Jose Rosales Juarez scouted out Norman at a
23 restaurant and bar in Manassas. You'll see evidence of
24 conversations between Rosales Juarez and GLCS's leader,
25 Andy Tovar, about killing Norman.

1 This is Andy Tovar, ladies and gentlemen.

2 You'll learn that Andy Tovar and Defendant
3 Rosales Juarez determined they would wait for a better
4 opportunity to attack and kill Norman, including when
5 they had a better escape plan and after they purchased
6 a firearm.

7 You'll hear from Norman that GLCS's next
8 opportunity came on August 12, 2019, while Norman was
9 doing his laundry in Manassas, Virginia, with a friend.
10 Norman will tell you how he noticed a black car and men
11 standing near it in the parking lot of the laundromat.
12 To Norman, these men seemed to be staring at him.
13 You'll learn that Defendant Kevin Perez Sandoval drove
14 a black car and was one of the three GLCS members or
15 associates who spotted Norman at the laundromat the day
16 he was shot.

17 During this trial, you'll also hear from
18 Javier Bonilla Arevalo, who is also a cooperating
19 witness with the government. You'll learn that his
20 gang nickname was Mental. And because he participated
21 in GLCS's attacks to kill both Elvin and Norman, he
22 will tell you about GLCS's plans for both and how he
23 participated.

24 With respect to Norman, Bonilla will tell you
25 that both he and Defendant Kevin Perez Sandoval and

1 Kevin Castro saw Norman in the parking lot at the
2 shopping plaza. They recognized him from the tattoos
3 in the picture Defendant Torres sent the gang weeks
4 before. Upon recognizing Norman, he'll tell you how
5 he, Defendant Perez Sandoval, and Kevin Castro all
6 immediately sprung into action to kill Norman.

7 He will tell you that after Kevin Castro
8 called Andy Tovar to get authorization to kill Norman
9 at the laundromat -- and this is while Defendant Perez
10 Sandoval was driving them -- Perez Sandoval then drove
11 him to get the gun from Kevin Castro's house. He will
12 tell you that after Kevin Castro returned to the car
13 with a bag containing the gun, a mask, and a change of
14 clothes, Defendant Perez Sandoval then drove him back
15 to the laundromat so that Kevin Castro could shoot
16 Norman.

17 Norman will tell you that he and his friend
18 were drinking beers in a parking lot area near the
19 laundromat when he suddenly saw a figure approaching
20 him through a hole in the fence. Norman sensed he was
21 in danger, and he took off running. But it was too
22 late. Shots rang out, and Norman will tell you that he
23 felt a sharp pain in his torso. Breathing heavily from
24 one of the gunshots, Norman flagged down a passing
25 police cruiser, and then an ambulance rushed him to a

1 hospital where surgery saved his life. Norman will
2 tell you about the lingering effects he has from being
3 shot, including continuing pain in his stomach.

4 You'll hear from Bonilla how Defendant Perez
5 Sandoval hurried the shooter, Kevin Castro, and Bonilla
6 from the scene of the crime in Defendant Perez
7 Sandoval's car to Defendant Jose Juarez's house. You
8 will hear that Defendant Rosales Juarez knew Kevin
9 Castro had just shot a gang rival and provided
10 Defendant Perez Sandoval with one of his cars in which
11 to leave. He let them exchange his hot car that the
12 police were looking for for another car. Defendant
13 Rosales Juarez was doing yet another favor for the
14 gang, this time ensuring that Defendant Perez Sandoval
15 wouldn't be driving around in the identifiable black
16 car so soon after the shooting.

17 Defendant Rosales Juarez's next favor for the
18 gang that night was renting a hotel room under his own
19 name for Kevin Castro and Bonilla so they could hide
20 out in the hotel room anonymously.

21 Ladies and gentlemen, this is GLCS. You'll
22 hear from Bonilla Arevalo that this particular photo of
23 GLCS includes him, Defendants Cruz Moreno and Perez
24 Sandoval and Kevin Castro.

25 During this trial, you'll learn a lot about

1 GLCS and each one of the defendants in this case. The
2 government will prove that each of the defendants was
3 involved in violent racketeering and drug distribution
4 on behalf of GLCS and will leave no reasonable doubt
5 that the defendants are guilty of the crimes charged in
6 this case.

7 One of the men who participated in Elvin's
8 attempted murder, the man who drove everyone to and
9 from the scene of the crime knowing that GLCS intended
10 to kill Elvin, is in the courtroom today. He is
11 Defendant Cruz Moreno. You'll learn that not only was
12 Defendant Cruz Moreno involved in violent racketeering
13 activity on behalf of GLCS but that he was also heavily
14 involved in drug distribution for the clique.

15 He also possessed a firearm. This firearm
16 allowed him to protect GLCS's drugs while he and other
17 members and associates of GLCS sold drugs. The
18 evidence will show that the same firearm Defendant Cruz
19 Moreno possessed in his vehicle with cocaine had
20 earlier been used during GLCS's attempt to kill Elvin.

21 You'll learn that the distribution of cocaine
22 and marijuana was a significant way that GLCS was able
23 to buy the weapons used in the charged crimes and
24 otherwise financially support the criminal activities
25 of MS-13.

1 One of the men who participated in Norman's
2 attempted murder, the man who drove everyone to and
3 from the scene of the crime knowing GLCS intended to
4 kill Norman, is in the courtroom today. He is
5 Defendant Perez Sandoval. You'll learn that not only
6 was Defendant Perez Sandoval involved in violent
7 racketeering activity on behalf of GLCS, but he was
8 also heavily involved in drug distribution for the
9 clique.

10 Another of the men who was involved in the
11 conspiracy to murder Norman, the man who first
12 identified Norman as a rival gang member to GLCS, is in
13 this courtroom today. He is Defendant Torres. You'll
14 learn that not only was Defendant Torres involved in
15 violent racketeering activity on behalf of GLCS, but he
16 was also heavily involved in the drug distribution for
17 the clique.

18 Finally, another of the men who was involved
19 in the conspiracy to murder Norman, the man who scouted
20 Norman for Andy Tovar a few days before Norman was
21 ultimately shot and later gave Perez Sandoval a
22 different car and rented a hotel room for the shooter
23 after Norman was shot, is in this courtroom today. He
24 is Defendant Rosales Juarez.

25 You'll learn that not only was Defendant

1 Rosales Juarez involved in violent racketeering
2 activity on behalf of GLCS, but he, too, was heavily
3 involved in drug distribution for the clique.

4 During the course of this trial, you'll come
5 to learn a lot about the gang enterprise in which each
6 of the defendants and their coconspirators are
7 associates.

8 MS-13 stands for La Mara Salvatrucha Trece.
9 You'll learn from a gang expert and some of the
10 government's cooperating witnesses that MS-13 is a
11 large international street gang whose members are
12 primarily from El Salvador. You'll learn that the gang
13 has a significant presence in the United States,
14 including Northern Virginia. You'll learn that the
15 gang is organized into smaller groups, like GLCS,
16 called cliques, which are led by an individual who is
17 called *la primera palabra*, or the first word.

18 The cliques make money through illegal means,
19 and they send part of the profits to senior leadership
20 in El Salvador.

21 You'll also hear evidence that MS-13 has a
22 rank structure. The lowest rank is *paro*, then
23 *observacion*, and then *chequeo*. The highest rank is
24 homeboy. You'll learn that homeboys are full-blown
25 members of the gang, and the *paros*, *observaciones*, and

1 *chequeos* conduct the day-to-day business of the gang at
2 the direction of the homeboys.

3 You'll learn that to move up in the rank or
4 rank-up, an MS-13 gang member needs to commit acts of
5 violence. You'll hear that in order to become a
6 homeboy in GLCS, an individual has to commit a murder.

7 As you've already heard, MS-13 is extremely
8 violent. You'll learn that MS-13's principal objective
9 is to instill fear and be the largest gang in the
10 world. The way MS-13 does this is through extreme
11 violence.

12 The evidence in the case will show that each
13 of the violent crimes you just heard about were
14 instances of GLCS implementing MS-13's primary
15 objective, controlling territory and accumulating power
16 through brutal violence, specifically attacking and
17 killing gang rivals or perceived rivals.

18 In each of these attacks, the defendants and
19 GLCS were ruthlessly following the gang's rules. In
20 each of these attacks, the individuals involved were
21 trying to either increase their rank or maintain their
22 rank in MS-13.

23 Finally, you'll hear that MS-13 often uses
24 the following three methods of operation to hunt down
25 and kill their rivals: First, they identify their

1 target and share his identity as a gang rival among the
2 clique. Second, MS-13 members and associates use
3 deceit or stealth to isolate their prey. Third, after
4 they have formulated their plan of attack, they
5 overwhelm their isolated and outnumbered prey by
6 attacking in a pack.

7 You will hear and see evidence that the
8 defendants did not commit these acts alone. Indeed,
9 the defendants hunted in packs and laid low rivals
10 together with other members and associates of GLCS
11 under the ruthless leadership of Andy Tovar. You'll
12 learn that Andy Tovar surrounded himself with a
13 ruthless band of men in GLCS, men who were willing to
14 commit all manner of violence and do anything necessary
15 to gain territory and power for GLCS and -- this is
16 important -- elevate or maintain their own positions
17 within GLCS.

18 When law enforcement arrested members and
19 associates of GLCS, Tovar rebuilt the clique by
20 promoting members and associates and recruiting more
21 ruthless men. During this trial, you'll learn about
22 some of Andy Tovar's chosen men, including each of the
23 defendants.

24 I'm going to go over the key players. The
25 evidence will show that seven men were involved in

1 Marvin's murder: Andy Tovar, the leader or first word
2 of the GLCS clique; Omar Antonio Villalta, a homeboy in
3 GLCS; Christian Martinez Sanchez, a homeboy and the
4 second word of GLCS and a cooperating witness, who will
5 tell you about his role in the plot to murder Marvin;
6 Walter Amaya, a homeboy in GLCS; Eduardo Zelaya, a
7 homeboy in GLCS; Jose Ruiz Escobar Umana, a *chequeo* in
8 GLCS; and Juan Carlos Charlie Argueta, an associate of
9 the Normandy clique of MS-13.

10 The evidence will show that five men were
11 involved in Elvin's attempted murder: Andy Tovar;
12 Defendant Roberto Cruz Moreno, a *chequeo* or *pasa de*
13 homeboy in GLCS; David Escobar, a *chequeo* in GLCS;
14 Kevin Castro Alvarez, a homeboy in GLCS; and Javier
15 Bonilla Arevalo, a *chequeo* in GLCS.

16 The evidence will show that six men were
17 involved in Norman's attempted murder: Andy Tovar;
18 Defendant Jose Rosales Juarez, a *paro* in GLCS;
19 Defendant Kevin Perez Sandoval, an *observacion* in GLCS;
20 Defendant Marvin Torres, a *chequeo* in GLCS; Kevin
21 Castro Alvarez; and Javier Bonilla Arevalo.

22 Several people who participated in Marvin's
23 murder, Elvin's attempted murder, and Norman's
24 attempted murder have already pled guilty and are
25 cooperating with the government's investigation. As

1 you heard, some of them will testify during the trial
2 as government witnesses.

3 The evidence will show commonalities between
4 the approach that GLCS took in Marvin's murder and
5 Elvin and Norman's attempted murders. As discussed,
6 these commonalities are hallmarks of MS-13's *modus*
7 *operandi*. In each case, GLCS hunted as a pack. They
8 scouted their prey. Then they either lured their prey
9 to an isolated place by claiming friendship, as they
10 did with Marvin and Elvin, or waited until their prey
11 was in an isolated place and then used stealth to catch
12 him unawares, as they did with Norman. Then they
13 struck. They attacked their isolated and outnumbered
14 victim with overwhelming force. Finally, GLCS
15 coordinated their getaways to elude law enforcement and
16 cover their tracks. In these packs, each person played
17 a role.

18 During the course of this trial, you are
19 going to hear over 30 witnesses, and you are going to
20 see over 700 exhibits. The government's evidence will
21 prove beyond a reasonable doubt that the defendants
22 were involved in violent racketeering activities, drug
23 distribution, and firearm offenses charged in this
24 case.

25 I don't have time to discuss every witness

1 and every piece of evidence that you will see during
2 the course of this trial, but I want to highlight some
3 of the most significant categories of evidence that you
4 will see and hear.

5 As I mentioned, during this trial, you are
6 going to hear from a gang expert. The gang expert is
7 going to testify to MS-13's history, structure,
8 organizational purpose, illegal activities, gang rules,
9 colors, and hand signs. The gang expert will testify
10 that MS-13 gang members know exactly what MS-13 does to
11 gang rivals.

12 As I said earlier, you're also going to hear
13 from cooperating witnesses: Pensamientos; Mental; and
14 Christian Martinez Sanchez, whose gang nickname is
15 Fire. Collectively, they will testify the defendants
16 are associates or members of the GLCS clique of MS-13
17 and about each of the defendants' involvement in the
18 charged crimes.

19 During the trial, you will hear that the
20 cooperating witnesses were all involved in the charged
21 violent crimes and drug distribution on behalf of GLCS
22 and they are testifying because they hope to receive a
23 reduction in their sentences. You will hear that they
24 haven't been promised anything for their cooperation.
25 And if they testify falsely, they won't receive any

1 reduction to their sentence, and they will be
2 prosecuted for perjury.

3 You're also going to hear from the surviving
4 victims in this case, Elvin and Norman. Elvin and
5 Norman are not perfect human beings. They will tell
6 you as much. They've each committed crimes, and they
7 were each affiliated with gangs. But despite almost
8 losing their lives to MS-13's brutal violence, they
9 will confront GLCS again in this courtroom and testify
10 to you about what happened to them.

11 During this trial, you will also see
12 transcripts of Title 3 wiretaps of Andy Tovar's phone
13 during the spring and summer of 2019. These calls were
14 predominantly in Spanish, which is why you will see
15 transcripts rather than hearing the calls themselves.
16 You'll note how extensively Andy Tovar communicated
17 with the defendants and other coconspirators in GLCS to
18 coordinate the crimes charged in this case and to help
19 each other avoid law enforcement detection after they
20 had committed the crimes. These calls will also
21 demonstrate without a doubt that each of the defendants
22 was heavily involved in the MS-13 enterprise and in the
23 gang's criminal activities.

24 Similarly, during trial you'll see numerous
25 messages translated from Spanish to English, sent

1 between the defendants and other GLCS coconspirators
2 concerning the crimes charged in this case and the
3 business of the gang. These messages will further
4 demonstrate that each of the defendants was heavily
5 involved in the MS-13 enterprise and the gang's
6 criminal activities.

7 Finally, you will hear and see evidence of
8 the defendants' own words telling you about their
9 involvement in GLCS and the crimes charged in this case
10 by the statements they each made to law enforcement.

11 You'll learn that Defendant Cruz Moreno told
12 law enforcement about driving his coconspirators to the
13 woods with Elvin, knowing that GLCS intended to murder
14 Elvin.

15 You'll learn that Defendant Cruz Moreno
16 identified the gun he possessed in this case as the
17 very same gun used by David Escobar to attempt to
18 murder Elvin.

19 You'll learn that Defendant Perez Sandoval
20 admitted to driving Kevin Castro and Javier Bonilla
21 both before and after the attempted murder of Norman
22 and to doing other favors for GLCS.

23 Additionally, you'll learn that Defendant
24 Torres told law enforcement he had been a *chequeo* in
25 GLCS for approximately two years and that he used to

1 collect dues payments from other GLCS members and
2 associates.

3 Finally, you'll learn that Defendant Rosales
4 Juarez admitted to law enforcement that he booked a
5 hotel room for Javier Bonilla and Kevin Castro, the man
6 who shot Norman, the evening Norman was shot because he
7 was doing a favor for Andy Tovar.

8 Before I finish, I want to briefly discuss
9 the charges in this case with you. The first crime
10 each of the defendants has been charged with is a
11 conspiracy to participate in a racketeering enterprise.
12 Conspiracy is simply an agreement between two or more
13 people to alert the others to break the law. To prove
14 a conspiracy to participate in a racketeering
15 enterprise, the government has to prove that MS-13 is a
16 criminal enterprise that engages in racketeering
17 activity. The government also has to prove that the
18 defendants knowingly agreed to be associated with the
19 enterprise and to personally participate in the affairs
20 of the enterprise.

21 Finally, the defendants had to agree that a
22 coconspirator, not necessarily the defendants, would
23 commit at least two acts of racketeering activity.
24 Racketeering activity includes crimes like murder, drug
25 distribution, and extortion. Here the evidence will

1 show that the defendants knowingly agreed to and did
2 participate in at least two of MS-13's racketeering
3 activities by, among other things, participating in
4 conspiracies to murder Elvin and Norman and
5 distributing cocaine and marijuana on behalf of GLCS.

6 Additionally, the evidence will show that
7 other members and associates of GLCS, who are part of
8 the same charged conspiracy, murdered Marvin as a part
9 of the racketeering activity.

10 To be clear, the government is not alleging
11 that these four defendants participated in the murder
12 of Marvin. However, that crime was committed by other
13 GLCS members as an act of racketeering activity that
14 was part of this conspiracy.

15 The government will prove during this trial
16 that MS-13 is a criminal enterprise that engages in
17 racketeering activity by putting on evidence that MS-13
18 gang members murdered Julio Urrutia and MS-13 gang
19 members murdered Christian Sosa Rivas. Again, to be
20 clear, the government is not alleging that these four
21 defendants had anything to do with the murders of
22 Urrutia or Sosa Rivas. Those were committed by other
23 MS-13 members and are being offered to demonstrate that
24 MS-13 is a criminal enterprise that engages in
25 racketeering activity.

1 The second crime which the defendants have
2 been charged with is conspiracy to commit murder in aid
3 of racketeering. To prove conspiracy to commit murder
4 in aid of racketeering, the government has to prove
5 that MS-13 was an enterprise engaged in the
6 racketeering activity I just discussed, that Defendants
7 Cruz Moreno, Perez Sandoval, Torres, and Rosales Juarez
8 had positions in that enterprise, and that they
9 knowingly conspired with others to murder Elvin in the
10 case of Cruz Moreno and Norman in the case of the other
11 three.

12 The government also has to show that each
13 defendant did so in order to increase or at least
14 maintain their positions in MS-13 or the position of
15 another in MS-13. For example, to help a fellow gang
16 member raise in rank.

17 Defendants Cruz Moreno and Perez Sandoval are
18 also charged with attempted murder and assault with a
19 dangerous weapon in aid of racketeering, which is still
20 the same proof requirements as those I've just
21 discussed with you but also requires proof of a
22 dangerous weapon to commit a violent act.

23 Defendant Cruz Moreno and Perez Sandoval are
24 also charged with aiding and abetting and the using and
25 discharging of firearms during crimes of violence

1 related to GLCS's attempts to murder Elvin and Norman
2 with pistols because, among other things, they drove
3 the shooters to the sites of the attempted murders and
4 drove them away after the shootings occurred.

5 The third crime each of the defendants has
6 been charged with is a conspiracy to distribute cocaine
7 and marijuana. The evidence will show that in 2019,
8 each of the defendants worked together with other
9 members and associates of GLCS to distribute cocaine
10 and marijuana.

11 Defendant Cruz Moreno is also charged with
12 the distribution of cocaine and possession of a firearm
13 in furtherance of a drug trafficking crime as a result
14 of his possession of a firearm to protect GLCS's
15 narcotics during the course of distributing cocaine on
16 behalf of GLCS.

17 Finally, Defendant Rosales Juarez is also
18 charged with accessory after the fact because of the
19 assistance he provided those involved in Norman's
20 shooting to evade law enforcement detection knowing
21 that Kevin Castro had just shot a rival.

22 As I said at the outset, this is GLCS.

23 Their hallmark is violence. Getting promoted
24 in the gang involves violence. Maintaining a position
25 in the gang involves violence. Protecting the gang's

1 territories from rivals involves violence. Making
2 money to send to El Salvador involves violence.

3 On the night of July 3, 2017, that violence
4 was on full display in a remote area of
5 Charlottesville, Virginia, where members of GLCS
6 brutally murdered Marvin Rivera Guevera with a machete
7 and knives because they wrongly believed he was a rival
8 gang member.

9 That violence was, again, on full display on
10 the night of March 8, 2019, in Bristow, Virginia, when
11 Defendant Cruz Moreno and his GLCS coconspirators
12 repeatedly shot, stabbed, and tried to slit the throat
13 of Elvin Pena Aguilera because they thought he had
14 become a rival gang member and he disrespected MS-13.

15 Finally, GLCS's violence was on full display
16 in broad daylight on August 12, 2019, when Defendant
17 Perez Sandoval and his GLCS coconspirators shot Norman
18 while he was waiting for his laundry in suburban
19 Manassas, Virginia.

20 None of these brutal attacks were impulsive,
21 reactive, or carried out in the heat of passion.
22 Rather, they were deliberate, planned, and ruthlessly
23 executed to promote MS-13's infusion of violence and
24 allow the individuals involved to rank-up or maintain
25 their ranks in MS-13.

1 The victims were all men who the GLCS
2 identified as rivals. They tricked or scouted these
3 men for the perfect times and locations to gang up and
4 butcher or shoot them via coordinated ambushes.

5 The evidence will also show that defendants'
6 violent acts were fueled by the money they made
7 distributing drugs in the Eastern District of Virginia.

8 At the end of this trial, we will have
9 another opportunity to speak with you. You will hear
10 from my colleagues. By that time, you will have heard
11 from our witnesses and seen our exhibits. Each piece
12 of evidence is a piece of a puzzle. As you hear from
13 the witnesses and see the exhibits, the pieces of the
14 puzzle will form a picture, a picture of how the MS-13
15 racketeering enterprise operated and, within that
16 picture, how the defendants served this enterprise
17 through their criminal actions.

18 Based on that evidence, my colleagues will
19 ask you to look at each of the defendants and tell them
20 that the Eastern District of Virginia is not MS-13
21 territory and that they cannot kill and do as they
22 please here, that the MS-13 gang will not be allowed to
23 control, and that there are consequences for MS-13
24 committing acts of violence and distributing drugs that
25 wreak havoc on our community.

1 We'll ask you to send a message by rendering
2 the only verdict consistent with the evidence you'll
3 hear during this trial, that each defendant is guilty
4 of each and every count with which they have been
5 charged.

6 Thank you for your service, your time, and
7 your attention during this trial.

8 THE COURT: Mr. Walsh.

9 (Mr. Walsh's opening statement is under a separate
10 cover.)

11 THE COURT: Mr. Conte.

12 OPENING STATEMENT

13 MR. CONTE: Thank you, Your Honor.

14 May it please the Court, counsel for the
15 government, cocounsel, ladies and gentlemen of the
16 jury. Good afternoon. My name is Joseph Conte. I
17 represent Mr. Kevin Perez Sandoval.

18 As a threshold, I want you to remember that
19 you have to only listen to the evidence. You weigh it
20 against that standard called beyond a reasonable doubt.
21 Now, that's the standard that you must weigh all the
22 evidence against. Keep that in mind. That's No. 1.

23 The second most important thing is that you
24 can't -- as the judge has already told you -- come to
25 any conclusions or decisions until you've heard all of

1 the evidence, all of the evidence. Because you're
2 going to hear a lot of evidence. A lot of that
3 evidence is not going to involve Kevin Perez Sandoval.
4 So listen to the evidence and keep a tally of what you
5 hear about Kevin Perez Sandoval because you're not
6 going to hear much.

7 So listen to the evidence. Don't come to any
8 conclusions. It would be a disservice to your duty as
9 jurors to reach conclusions, to make any kind of
10 decisions until you've heard all the evidence in the
11 case.

12 Again, we don't have to present evidence. I
13 don't want to parrot Mr. Walsh because -- but we stand
14 similarly situated. We don't have to present evidence.
15 We're going to fight the same witnesses. There's going
16 to be evidence maybe against his client, maybe against
17 mine. The wealth of the evidence is going to be -- not
18 involve our clients. So pay attention to the evidence
19 and listen to what all of these witnesses have to say
20 and whether they involve Kevin Perez Sandoval at all.

21 Kevin Perez Sandoval, he's sitting here. You
22 see him. He's grown. Unfortunately, he is probably
23 immature for his age. He had friends, friends who
24 turned out to be MS-13 members. That's how he met
25 these people.

1 Unfortunately, he did use marijuana and he
2 occasionally used cocaine. That's how he became
3 associated with some of these people who dealt with
4 marijuana and cocaine. That's his association with
5 MS-13. He is not a member of MS-13. He doesn't
6 believe -- have the beliefs of the MS-13 members. He
7 is just a person that was there for the drugs and --
8 for the drugs and --

9 So listen to the evidence. Pay attention to
10 the evidence. This is what you're going to find out
11 about Kevin Perez Sandoval.

12 Again, I'm not going to parrot Mr. Walsh, but
13 the witnesses in this case have something to gain by
14 not being truthful with you. They've either cut a deal
15 with the government in the hopes of a reduced sentence
16 or been granted immunity to testify. They'll walk.
17 They will just turn their back and walk out the door
18 just like that, like any free person, after committing
19 heinous acts. You have to take that into
20 consideration.

21 So finally, I repeat: Listen to all the
22 evidence, weigh it in the balance against that standard
23 of beyond a reasonable doubt.

24 I'll be able to address you at the end of
25 this trial, but heed my words and listen to the

1 evidence. Don't come to any conclusions until you've
2 heard all the evidence.

3 Thank you.

4 THE COURT: All right. Thank you.

5 Mr. Oates.

6 OPENING STATEMENT

7 MR. OATES: May it please the Court and
8 counsel for the government, defense counsel.

9 Good afternoon, ladies and gentlemen. My
10 name is Jonathan Oates. I'm an attorney representing
11 Marvin Torres.

12 Marvin, can you please stand for a moment.

13 Marvin Torres is the individual in the purple
14 shirt.

15 Thank you.

16 This case is not about MS-13. As much as the
17 government wants to make this case about MS-13 and
18 telling you, "Send a message that this isn't MS-13
19 territory," this isn't about MS-13. MS-13 is not on
20 trial here today. If they were -- if it was, it would
21 lose every single time. MS-13 is not a good
22 organization. It's a violent one. It's a gang. It's
23 a violent one. You're going to hear evidence and
24 testimony about how violent it is.

25 That's not what we're here about today. Andy

1 Tovar with his MS-13 tattoos on his head organizing all
2 of this or people in El Salvador calling the shots or
3 anybody else isn't here on trial today. Not a single
4 one of us is going to tell you that MS-13 is somehow
5 some sort of a good thing.

6 This case is about people. There are people
7 here, Mr. Torres, who is charged with crimes, who is
8 alleged to have committed crimes. These are people.
9 These are individuals.

10 At the beginning of this, these were kids.
11 The government alleges that Mr. Torres was somehow
12 involved in racketeering when he was 16 years old. You
13 heard about the attempted murder that happened in
14 August 2019 that Mr. Torres was somehow involved in.
15 At the time, he was 18 years old.

16 This talk about hunting in packs and all of
17 the other things that the government has argued today,
18 none of that involves Mr. Torres, Marvin Torres. The
19 only person here who is not alleged to have been at a
20 murder scene or to have driven somebody to or from a
21 murder scene is Marvin Torres.

22 The only reason Marvin Torres is here is
23 because of a group chat photo that he sent. You're
24 going to hear evidence that on July 12 -- no --
25 July 14, 2019, Marvin Torres was at a laundromat that's

1 around the corner from his house. It's a place that he
2 goes all the time. It's a place -- you'll hear that
3 it's a place that other people go all the time.

4 Mr. Torres saw a guy, Norman Medina Sanchez,
5 who had 18th Street tattoos on his legs. He took a
6 picture of it, and he sent that to the group chat. His
7 exact words were, "Look at this guy with shit on his
8 legs," and then there's some, frankly, not very nice
9 language saying, "Look at this fag washing."

10 "Look at this guy with shit on his legs."

11 That's it. That's Mr. Torres' involvement.
12 There wasn't any -- you're not going to hear any text
13 messages from Mr. Torres saying, "Hey, let's go kill
14 this guy," or "This guy is in our territory. Let's
15 kill him. Let's attack him."

16 "Hey, who has got the gun? Here's where this
17 guy is."

18 From July 14 to the date of the attempted
19 murder on August 12, Marvin Torres' involvement with
20 regards to this attempted murder is zero, nothing.

21 Judge Trenga instructed you that you're going
22 to hear a lot about conspiracy, and Mr. Torres,
23 obviously, isn't charged with attempting to murder him,
24 as the government concedes. He's charged with
25 conspiracy.

1 Judge Trenga stated that when you hear
2 conspiracy, think about an agreement, right?
3 Conspiracy basically is a legal term for an illegal
4 agreement. It's a deal. Let's work together on
5 something. Let's do this.

6 It comes -- and you show that by seeing
7 what's inside somebody's mind, right? There's no
8 contract. So did Marvin Torres do anything -- this is
9 what you'll have to decide: Did Marvin Torres do
10 anything to show that he agreed that these other people
11 should kill Norman Medina Sanchez?

12 Well, what do we look at? We can't step
13 inside Mr. Torres' brain. We don't know exactly what's
14 going on. What do we look at? Well, one of the things
15 we look at is we look at his actions. When Javier
16 Bonilla and Kevin Castro and Kevin Perez Sandoval saw
17 Norman Medina Sanchez at the laundromat that day, did
18 they call Marvin? Did Marvin say, "Yeah, that's the
19 guy that I saw"? Did Marvin say, "Hey, why don't you
20 go get that gun?" Did Marvin say, "Hey, be careful not
21 to get caught?"

22 Did Marvin say, "Hey, before you go and try
23 to kill this guy, why don't you run it up the ladder?
24 Why don't you ask for Andy Tovar?"

25 Did Marvin say anything? Did they ask

1 Marvin? Did they communicate at all with Marvin Torres
2 about that? No, zero.

3 What evidence is there of an agreement of
4 what the government has to prove inside Marvin Torres'
5 brain that he conspired to kill Norman Medina Sanchez
6 on that day? There's nothing. You're not going to see
7 a single text message, hear a single phone call, hear
8 that Marvin Torres was anywhere near there at all.
9 Marvin Torres is absolutely innocent of that charge.
10 He is absolutely innocent of that charge. He is
11 absolutely innocent of that charge. He didn't conspire
12 to kill anybody.

13 Following that attempted murder in August, in
14 the government's investigation, they went and they
15 talked to -- obviously, there were crime scene police
16 officers, people who investigated the scene. They made
17 an arrest of Andy Tovar. They got his phones. You're
18 going to hear that the text messages that had the photo
19 that they sent, that they claim says that he somehow
20 conspired, the text message that he sent a month
21 earlier, that says he somehow conspired to kill Norman
22 Medina Sanchez. The police and law enforcement have
23 that, and they received it. That's the information you
24 are going to have. They had wiretaps. They had phone
25 calls. Everything that you're going to hear about

1 today in this case with respect to Norman Medina
2 Sanchez, every piece of physical evidence they've had
3 for years.

4 Other people were charged in between then.
5 You're going to hear that Marvin Torres wasn't charged
6 until two years later despite having all of this.
7 Despite having everything that you can see, Marvin
8 Torres was not charged for two years. As you're
9 listening to the evidence, ask yourselves why.

10 You're going to hear evidence that MS-13 and
11 the GLCS clique was ruled by Andy Tovar. He had these
12 little millions of children running around and doing
13 not good things for him but that Andy Tovar was
14 dominant and that people lived in terror of what he
15 would do. You're going to hear text messaging phone
16 calls of people saying -- well, to Marvin Torres
17 saying, "Marvin, if you don't do this and if you don't
18 do that, I'm going to stomp you with my 300-pound
19 boots. I'm going to beat you with a bat again. "And
20 this is for a 17- or 18-year-old kid. You're going to
21 hear that this isn't what he wanted to get into. Once
22 you're in it, you're stuck, and you can't get out.

23 You're going to hear about how special agents
24 with Homeland Security in the gang task force went and
25 they visited Marvin. They wanted to talk with him

1 because they knew that Marvin didn't want to be in the
2 gang anymore and he wasn't doing what he was supposed
3 to do. You're going to hear that they knew that there
4 were plans to kill Marvin.

5 You're going to hear that Marvin was trying
6 to get away. This conversation -- this interview
7 happened March 9, 2021. They contacted Marvin. They
8 said, "Hey, come in. There's some stuff of interest.
9 We want to talk with you." And they brought him in,
10 and they laid out all of these things about how he was
11 going to get killed.

12 It's not a very smart decision. Marvin said,
13 "Okay. I know, but I'm going to handle it on my own."

14 They offered him help. Marvin didn't make a
15 good decision that day, probably on March 9, 2021. He
16 said, "You know what? I'm going to do it on my own."
17 Had he made a different decision, he certainly wouldn't
18 be here.

19 But without any new evidence, without
20 anything new, within two weeks of that meeting, the
21 special agents went down and they talked to the
22 cooperating witness. They talked to Javier Bonilla,
23 the guy you're going to talk to -- I'm sorry -- you're
24 going to hear from, the guy who in early March
25 explained that, "Yeah, I stabbed him in the neck twice,

1 but I didn't really want to. I didn't want to hurt
2 him." This guy was with Kevin Perez Sandoval and Kevin
3 Castro as they pulled a gun on Norman Medina Sanchez on
4 August 12, 2019, the guy who is not going to be
5 prosecuted for anything.

6 They went down and they talked to him. After
7 he told the agents thanks, but no thanks, they went
8 down and talked to him. They said, "Trance" -- that's
9 his nickname, his MS-13 GLCS gang nickname. Marvin is
10 Trance. They said, "Tell us what you know about
11 Trance. Tell us what you know about his involvement in
12 the attempted murder of Norman Medina Sanchez."

13 Frankly, Javier Bonilla, much to his credit,
14 didn't tell them anything new because Marvin Torres had
15 zero involvement in that attempted murder, none. There
16 was no agreement. There was no actions. He had zero
17 involvement. He's innocent of that. And the
18 government learned no new evidence about Marvin Torres.

19 I take that back. The government did learn
20 from Javier Bonilla about Marvin Torres. They asked
21 him, "Was Marvin Torres distributing drugs for the
22 clique?"

23 And he said, "No."

24 Marvin Torres is charged with distributing
25 cocaine and marijuana from January 2019 through August

1 2019. When they went down and talked to Javier
2 Bonilla -- who the government is going to say trust
3 this guy -- they asked him, "Was Marvin selling drugs
4 during this time?"

5 And he said, "No."

6 He said that Marvin basically was -- you
7 know, he was paying rent or an amount of money to not
8 have to distribute drugs for the gang. And he was
9 doing it on his own, frankly, not as a part of the
10 gang, not as a part of the clique. So Marvin Torres is
11 innocent of that charge as well.

12 I don't think there's going to be a lot of
13 dispute as to these facts. But it's pretty clear that
14 the facts are absolutely not going to show that Marvin
15 Torres had some sort of agreement to murder Norman
16 Medina Sanchez by taking a picture. That's just
17 ludicrous.

18 You know, Mr. Walsh and Mr. Conte talked a
19 little bit about the standard of proof that the
20 government bears in this case. And as a defense
21 attorney, I have to bring that back up again because
22 it's so critically important. Keep this in mind as
23 you're listening to the evidence in this case: The
24 government has to prove Marvin Torres -- has to prove
25 this agreement beyond a reasonable doubt.

1 Beyond a reasonable doubt is the highest
2 standard that we have in the law. There is no higher
3 standard, and it's something that's critical in our
4 criminal justice system. It's so high for criminal
5 cases, much higher than civil cases, much higher than,
6 you know, people using parenting rights. In a family
7 case, you can lose your parenting rights, your rights
8 as a parent for clear and convincing evidence. That's
9 the last thing beyond a reasonable doubt. You can
10 bankrupt a multibillion-dollar company in a lawsuit for
11 a preponderance of the evidence. Bankrupted company,
12 losing parental rights, guilty of a criminal
13 conviction.

14 It's that high, and it's that high because
15 it's meant to prevent wrongful convictions. It's meant
16 to prevent people that are innocent of crimes from
17 being convicted. Marvin Torres is innocent in this
18 case. Marvin Torres is absolutely innocent of these
19 charges.

20 Let me back up. I got ahead of myself just a
21 moment.

22 So after the special agents -- after Marvin
23 on March 9, 2021, said, "Thank you, but no thank you;
24 you know, I know that these people want to kill me; and
25 I know that they're trying to kill me, but I'm going to

1 handle it on my own," special agents went down, they
2 found Javier Bonilla. They said, "Let's talk about
3 Trance. We want to talk about Marvin. Tell us what he
4 knows."

5 They don't learn anything else. And despite
6 that, despite that all the evidence you're going to see
7 against Marvin Torres after talking to Javier Bonilla,
8 nothing has changed. They still brought charges. They
9 still did. I don't know if it was out of -- I think it
10 has to do with this, what I started with. They lost
11 sight that this case isn't about MS-13, that the people
12 that they've charged and the facts as they alleged are
13 innocent people.

14 You know, show them that this isn't MS-13
15 territory with the torches and the pitchforks. Get
16 every single one of them regardless of what we know,
17 regardless of what they've known for years. They
18 didn't charge him not because they have a goodness in
19 their heart. They didn't charge him because they knew
20 there wasn't any evidence. Nothing has changed.

21 Please look critically at this case. Please
22 look carefully at this case. I know that this isn't
23 the first place that you want to be, but this is
24 perhaps the most important juncture and moment in
25 Marvin Torres' life. His freedom is hanging in the

1 balance for charges that he did not commit.

2 At the end of the government's evidence, I'm
3 going to ask you to find a verdict of not guilty for
4 the drug distribution and the conspiracy to murder
5 Norman Medina Sanchez.

6 Thank you.

7 THE COURT: Mr. Krischer.

8 OPENING STATEMENT

9 MR. KRISCHER: May it please the Court,
10 counsel for the government, defense counsel.

11 Ladies and gentlemen of the jury, I have an
12 unenviable place of being last, and I appreciate your
13 attention to all of our arguments and the relatively
14 brief statement that I'll make today at this, the
15 beginning of the case.

16 Mr. Rosales Juarez is charged with a RICO
17 conspiracy, a conspiracy to commit murder, of which
18 there are several. Very specifically, Mr. Rosales
19 Juarez is only charged with a conspiracy to commit
20 murder that occurred in August 2019. He is charged
21 with conspiracy to distribute cocaine and marijuana and
22 accessory after the fact, that he took some action
23 after the attempted murder in August 2019, and that
24 makes him culpable of a separate crime.

25 You have heard from the government as they

1 have laid out their case, and you've heard from the
2 other defense counsel about their thoughts on that
3 evidence. It's important to know that even though we
4 are all defense counsel, we are not a team. We are not
5 jointly defending each other's clients. Each one of us
6 has one client, and that's the only person that we are
7 representing.

8 So there may be times when you see us working
9 together or conversing together because, as you've
10 heard, a lot of the evidence is going to be the same.
11 A lot of the evidence is going to be about the
12 credibility of the government's witnesses, the
13 criminals that they have elected to come and have
14 testify to you and tell you that our clients are
15 guilty.

16 I want you to pay attention as this case
17 progresses, and we'll be here for some time. I want
18 you to pay attention to the evidence. Pay attention to
19 what the government told you they were going to prove,
20 the evidence that they will show you, and hold them to
21 that. Hold them to that burden.

22 Their statement today is not evidence. They
23 still have to show it to you, and some of that evidence
24 is going to involve expert testimony. You heard the
25 government talk about there's going to be a gang

1 expert. This gang expert is going to talk about
2 structure and rank and rules and all of these things.

3 That expert is also going to tell you that
4 MS-13 gang members are liars. They make things up.
5 They engage in bluster, that their status in the gang
6 is related to crimes that they have committed. So, of
7 course, they're all going to talk about things that
8 they did, just the statements about what they did, but
9 they're liars.

10 You're also going to hear from the expert
11 that the first word is the last word. The first word
12 is the one who lays down the law. If you break his
13 law, then you get the bat or you get his boot or you
14 get greenlit, which you will learn means you are
15 authorized to be killed.

16 You are going to hear that it's in
17 everybody's interest -- gang member, gang associate,
18 member of the public who is aware that these people are
19 gang members -- it's in everyone's interest to play
20 along and to agree and to say okay and yes.

21 You're going to hear a lot of evidence about
22 lots of terrible crimes. Many of the images that you
23 will see as this trial progresses will never leave you.
24 They will haunt you. They will haunt all of the
25 attorneys and the people here in the courtroom.

1 What's important to remember -- and Mr. Walsh
2 pointed this out -- is most of the horrific pictures
3 that you will see have nothing to do with anybody
4 sitting here. They involve murders that occurred in
5 2017, 2016, and 2014. And as Mr. Walsh told you, that
6 is going to be designed to shock and awe you. Because
7 when you see that, your reaction is going to be, We
8 can't let this happen. We're going the show MS-13.
9 But that's not the evidence against our clients.

10 You're going to hear evidence that
11 Mr. Rosales Juarez was a part of the lowest rank in the
12 gang. You're also going to hear evidence from the same
13 witness who says he was a part of the gang. He also
14 told the government he's not in the gang. The fact is
15 no one really knows if he's in the gang. In fact, one
16 of the agents says, "We've never actually been able to
17 tie him to the gang at all."

18 So you're going to hear lots of evidence
19 about crimes that have nothing to do with my client.
20 You are going to hear contradictory evidence about
21 whether or not he's a member of a gang at all. You're
22 going to hear lots of evidence about crimes that my
23 client has nothing to do with.

24 The other thing that I want you to pay
25 attention as we go through this trial is I want you to

1 pay attention to the evidence that you don't hear. The
2 government alluded to a conversation between
3 Mr. Rosales Juarez, my client, and Andy Tovar about
4 buying a gun. You are not going to hear evidence that
5 any gun was purchased, that anything was actually done
6 in relation to that conversation.

7 You're not going to see evidence that
8 Mr. Rosales Juarez was involved or participated in
9 events relating to the gang at all before 2019.

10 And at the end of the day, all of these gaps
11 and all of these contradictions are going to simply be
12 insufficient to meet the government's burden. It will
13 be insufficient to prove beyond a reasonable doubt that
14 Mr. Rosales Juarez was a member or associated with a
15 gang, that he engaged in activities or made an
16 agreement to support the gang's activities, and
17 certainly not that he engaged in an agreement in order
18 to go and kill Mr. Medina Sanchez on August 12, 2019.

19 You will hear that he admitted to officers,
20 "Yes, I took them to that hotel."

21 The only evidence you're going to hear that
22 he knew about what happened beforehand comes from a
23 name you've heard many times already this afternoon,
24 Javier Bonilla. Javier Bonilla, who has initially said
25 my client wasn't part of a gang -- that's what he first

1 said -- and then as he wanted more, as he was promised
2 more or received more from the government, his story
3 changed: Oh, no. He is part of the gang.

4 And he also says, Well, I think that someone
5 told Mr. Rosales Juarez that the shooting had occurred.

6 That's going to be the evidence that you
7 hear. That certainly is insufficient to prove beyond a
8 reasonable doubt that Mr. Rosales Juarez made an
9 agreement or even knew at the time that he drove the
10 other individuals to the hotel that an attempted murder
11 had occurred.

12 We'll be able to come back and speak to you
13 directly one more time during this trial. And at that
14 time, we'll actually be able to address every piece of
15 evidence that was and wasn't introduced. At this
16 point, I'm just asking you to pay attention to these
17 things as the trial progresses. But at the end of the
18 trial, I'll be able to go through each and every piece
19 of evidence and why none of that evidence is going to
20 be sufficient to prove beyond a reasonable doubt that
21 Mr. Rosales Juarez is guilty of any of the crimes the
22 government has charged him with.

23 Thank you very much, and have a good
24 afternoon.

25 THE COURT: Thank you.

1 Ladies and gentlemen, before we continue, we
2 will go ahead and take our afternoon recess at this
3 time.

4 You're excused to the jury room. We'll
5 reconvene at 4:00. Again, please do not discuss this
6 case among yourselves during the recess.

7 You're excused to the jury room.

8 (The jury exits at 3:42 p.m.)

9 THE COURT: All right. Anything we need to
10 take up before the first witness?

11 MR. MURPHY: Not from the government, Your
12 Honor.

13 THE COURT: All right.

14 MR. WALSH: No, Your Honor.

15 THE COURT: All right. The Court will stand
16 in recess.

17 (Recess from 3:42 p.m. until 4:08 p.m.)

18 (The jury is not present.)

19 THE COURT: All right. Please be seated.

20 Anything before we bring the jury out?

21 MR. MURPHY: No, Your Honor.

22 THE COURT: All right. A couple of issues.

23 A few of the jurors have indicated they're having
24 difficulty from where they're seated viewing the
25 witness box and some of the other ongoing in the

1 courtroom. They've conferred among themselves, and
2 they've asked if it was possible if they all could sit
3 in the jury box together. So I'm going to let them do
4 that.

5 Also, one of the jurors has indicated that
6 the juror in front of this person is too tall to be
7 seen over. So they're going to switch places.

8 Do we know which ones those are?

9 THE COURT SECURITY OFFICER: Not yet, sir.
10 I'll find out when they come out.

11 THE COURT: All right. Let's bring the jury
12 out.

13 (The jury enters at 4:09 p.m.)

14 THE COURT: All right. What's your number,
15 sir?

16 JUROR: No. 48.

17 THE COURT: No. 48. You're switching places
18 with?

19 JUROR: No. 8.

20 THE COURT: Eight. All right. Very good.
21 Thank you.

22 All right. Please be seated.

23 The government will call its first witness.

24 MR. PATTERSON: The government calls Edgar
25 Blanco Torres.

1 THE COURT: All right. Mr. Torres will come
2 forward, please.

3 Would you identify yourself for the record
4 and be sworn, please.

5 INTERPRETER HORVATH: Yes. Maria Horvath,
6 federally certified court interpreter.

7 INTERPRETER PRADO: Manuel Prado, federally
8 certified court interpreter.

9 Good afternoon, Judge Trenga.

10 (The interpreters affirm.)

11 THE COURT: All right. Thank you.

12 All right. Is the witness sworn?

13 THE CLERK: I'm going to do that now, Judge.

14 EDGAR OSWALDO BLANCO TORRES, GOVERNMENT'S WITNESS,

15 AFFIRMED

16 DIRECT EXAMINATION

17 BY MR. PATTERSON:

18 Q Could you please introduce yourself to the Court
19 and spell your name for the court reporter.

20 A Edgar Oswaldo Blanco Torres.

21 THE COURT: Mr. Torres, would you keep your
22 voice up, please, if you would.

23 BY MR. PATTERSON:

24 Q Could you spell your name, please.

25 A First name is E-D-G-A-R. Second name is

Blanco Torres - Direct

1 O-S-W-A-L-D-O, B-L-A-N-C-O, T-O-R-R-E-S.

2 Q And how old are you?

3 A Twenty-nine.

4 Q Where were you born?

5 A El Salvador.

6 Q What year did you come to the United States?

7 A 2016.

8 Q And how old were you when you came to the United
9 States?

10 A Twenty-three.

11 Q How did you get to the United States?

12 A As an immigrant.

13 Q Were you a legal immigrant?

14 A No.

15 Q When you first came to the United States, which
16 state did you go to?

17 A Maryland.

18 Q Why did you go to Maryland?

19 A My family was waiting for me there.

20 Q Did you stay with your family in Maryland?

21 A Yes. For a while, yes.

22 Q How long did you stay with your family in
23 Maryland?

24 A Six months.

25 Q Where have you moved after being with your family?

Blanco Torres - Direct

1 MR. CONTE: I object to the relevance of
2 this, Your Honor.

3 THE COURT: May I see counsel at the bench,
4 please.

5 (Conference at the bench, as follows:)

6 THE COURT: What's everyone's view of
7 witnesses testifying with their mask on?

8 MR. MURPHY: I would defer to the preference
9 of the witness.

10 MR. WALSH: I would too.

11 MR. KRISCHER: Yeah.

12 MR. OATES: I mean, I would like the witness
13 to take their mask off, especially for some witnesses,
14 if the jury is going to be judging their credibility.
15 I think being able to see their full face is important.

16 MR. PATTERSON: If they're vaccinated.

17 MR. MURPHY: Some witnesses may be more
18 confident with doing that than others. I can tell you
19 there's at least one government witness who would not
20 be comfortable doing that for medical reasons.

21 THE COURT: Do we know if this person is
22 vaccinated?

23 MR. PATTERSON: I don't know the answer to
24 that.

25 MR. MURPHY: We can inquire of his

Blanco Torres - Direct

1 vaccination status. I don't know currently.

2 THE COURT: I agree with you. I think it's
3 much easier for the jury to make judgments about
4 credibility without the mask.

5 MR. MURPHY: Do you want to inquire with each
6 witness when they come up as to whether or not they
7 would be comfortable testifying without a mask?

8 THE COURT: Well, if they are vaccinated, I'm
9 going to ask that they testify without a mask. Why
10 don't we inquire of the witness whether he's
11 vaccinated.

12 MR. PATTERSON: May I do that right now?

13 THE COURT: Yes, why don't you do that with
14 the interpreter.

15 (Mr. Patterson leaves the bench and returns.)

16 MR. PATTERSON: He is vaccinated.

17 THE COURT: All right. We're going to ask
18 him to testify without a mask. All right.

19 MR. PATTERSON: Thank you, Your Honor.

20 THE COURT: Very good.

21 I'm sorry. What was the objection?

22 MR. CONTE: Just relevance, Your Honor.

23 THE COURT: What was the question?

24 MR. CONTE: How long he lived in Maryland
25 with his parents. I don't think that's relevant.

Blanco Torres - Direct

1 THE COURT: Let him answer, and we'll move
2 on.

3 MR. PATTERSON: Thank you, Your Honor.

4 (Proceedings continued in open court, as follows:)

5 THE COURT: Mr. Torres, I understand that
6 you're vaccinated. So I'm going to ask that you
7 testify without your mask on.

8 BY MR. PATTERSON:

9 Q Where did you move after being with your family?

10 A It's close to Maryland, but I keep forgetting the
11 name of the county.

12 Q Who did you live with?

13 A With some friends from the MS-13 gang.

14 Q How far did you go in school before you came to
15 the United States?

16 A Fifth grade.

17 Q When you came to the United States, did you
18 continue to go to school here?

19 A No.

20 Q Have you ever been in a gang?

21 A Yes.

22 Q Which gang?

23 A MS-13.

24 Q What's the full name of MS-13?

25 A La Mara Salvatrucha.

Blanco Torres - Direct

1 Q How old were you when you joined MS-13?

2 A Fourteen years old.

3 Q Where did you live when you joined MS-13?

4 A In El Salvador. That was in San Miguel.

5 Q Within MS-13, was there a particular clique that
6 you first joined?

7 A Yes.

8 Q Which one?

9 A Guanacos Lil Cycos.

10 Q And do you know how they got the name Guanacos?

11 A Because we are El Salvadorians, so we are
12 Guanacos.

13 Q And approximately how long were you with the
14 Guanacos Lil Cycos clique?

15 A Four years.

16 Q Did you go to rehab?

17 THE INTERPRETER: Excuse me?

18 Q Did you go to a rehabilitation facility?

19 A Yes.

20 Q Why did you go?

21 A Well, to rehab, to get help from the gangs and
22 from drugs.

23 Q Why did you want to get help from the gang?

24 A To be a good person in society and to get away
25 from gangs.

Blanco Torres - Direct

1 Q How long were you in a rehabilitation program?

2 A Ten months.

3 Q When you left the program, did you return to

4 MS-13?

5 A Yes.

6 Q Which clique did you join when you went back to

7 MS-13?

8 A Coronados Lil Cycos.

9 Q Why didn't you go back to the Guanacos Lil Cycos
10 clique?

11 A I didn't trust them to go back with them.

12 Q What did you think might happen to you if you went
13 back to them?

14 A They wanted to kill me.

15 Q In what country were you when you joined the
16 Coronados clique?

17 A El Salvador.

18 Q Was the Coronados clique present in Maryland or
19 Virginia when you came to the United States?

20 A Yes.

21 Q Did you stay in Coronados or join another clique
22 when you came to the United States?

23 A I went back to Coronados.

24 Q Generally, when a person joins the MS-13 gang, are
25 they given a nickname?

Blanco Torres - Direct

1 A Yes.

2 Q Were you given a nickname?

3 A Yes.

4 Q What was your nickname?

5 A Wizard.

6 Q Why do MS-13 gang members use nicknames?

7 A So that nobody could identify us through our true
8 name, nobody in the gang and nobody by the police.

9 Q Are you currently in prison?

10 A Yes.

11 Q Are you in prison for pleading guilty to murder in
12 aid of racketeering?

13 A Yes.

14 Q What year did you plead guilty to this charge?

15 A 2018.

16 Q Where did you plead guilty to this crime?

17 A In Alexandria.

18 Q In this court?

19 A Yes.

20 Q Was that for a murder you committed with other
21 MS-13 gang members?

22 A Yes.

23 Q What were the names of the other MS gang members
24 who were involved in that murder?

25 A Rasta with the Coronados, Slaker from the

Blanco Torres - Direct

1 Coronados, Cannabis or Baby Face, Archangel from
2 Coronados, and then Katie Portillo, and Angelica
3 Blanco.

4 Q And when you mentioned the people's names, are you
5 giving us nicknames here?

6 A The nicknames.

7 Q And when you're giving us -- when you say after
8 that another name, what is that that you're describing?

9 A The name of the two girls.

10 Q And were they members of MS-13?

11 A No.

12 Q But were they involved in the murder?

13 A Yes.

14 Q Were you housemates with any of these individuals?

15 A Yes.

16 Q Which ones?

17 A With Cannabis, Slaker, Katie Portillo, and
18 Angelica Blanco.

19 Q I'm going to now show you what has been marked for
20 identification as Government's Exhibits 59-6 -- it will
21 be 59-6, 59-7 -- it should be marked as 59-6, and then
22 59-7 should be the next one.

23 THE COURT: You're asking him to look at 59-6
24 and 59-7?

25 MR. PATTERSON: Yes, and then also 59-8,

Blanco Torres - Direct

1 59-9, 59-10, 59-11, and 59-12. It should be seven
2 exhibits.

3 THE COURT: Counsel, I don't have a 59-12.
4 You can continue.

5 Oh, I'm sorry. I do have it.

6 MR. PATTERSON: You do?

7 THE COURT: I do, yes.

8 BY MR. PATTERSON:

9 Q Do you recognize these photographs?

10 A Yes.

11 Q Who appears in these photographs?

12 A Angelica Blanco, Katie Portillo. That's me.
13 That's Rasta, R-A-S-T-A, Cannabis, Slaker, Jericho.

14 Q And are you familiar with what each of the
15 individuals in these photographs looks like?

16 A Yes.

17 Q How are you familiar with what they look like?

18 A Well, I lived together with them, and with
19 Cannabis and Rasta, we worked together. And Slaker
20 too.

21 Q Do the photographs in Government's Exhibits 59-6
22 through 59-12 fairly and accurately depict the
23 individuals you just mentioned?

24 A Yes.

25 MR. PATTERSON: Your Honor, at this time I

Blanco Torres - Direct

1 would ask to admit these exhibits into evidence and
2 publish them.

3 THE COURT: All right. Any objection?

4 MR. KRISCHER: No, Your Honor, no objection.

5 THE COURT: Without objection, Exhibits 59-6
6 through 12 are admitted.

7 MR. PATTERSON: I'd like to put up 59-6 now,
8 please.

9 BY MR. PATTERSON:

10 Q Who is depicted in this photo?

11 A Heather Blanco.

12 Q And looking at Government's Exhibit 59-7, who is
13 in this photo?

14 A Katie Portillo.

15 Q And looking at Government's Exhibits 59-8 and
16 59-9, who is that?

17 A It's Rasta.

18 Q And 59-10?

19 A Cannabis.

20 Q And 59-11?

21 A Slaker.

22 Q And 59-12?

23 A Jericho.

24 Q With respect to the racketeering crime you pled
25 guilty to here in the Eastern District of Virginia,

Blanco Torres - Direct

1 have you been sentenced for that crime?

2 A Yes.

3 Q And what sentence did you receive?

4 A A life sentence.

5 Q As a result of your guilty plea, did you enter
6 into a Plea Agreement with the government?

7 A Yes.

8 Q As a result of your cooperation, have you been
9 placed in protective custody within the Bureau of
10 Prisons?

11 A Yes.

12 Q Inside of the exhibit binder, I'd like for you to
13 look at what's been marked as Government's
14 Exhibit 58-2.

15 THE INTERPRETER: I was asking where it was
16 in the folder. I'm sorry.

17 MR. PATTERSON: It should be before -- it
18 should be 58-2. It could be in a separate folder,
19 58-2.

20 THE COURT SECURITY OFFICER: Exhibit 58
21 should be in that book.

22 BY MR. PATTERSON:

23 Q Do you recognize Exhibit 58-2?

24 A Yes.

25 Q What is it?

Blanco Torres - Direct

1 A I forgot the name of it.

2 Q Is it a Plea Agreement?

3 A Yes, it's the Plea Agreement.

4 Q Does your signature appear on the last page of the
5 Plea Agreement?

6 A Yes.

7 MR. PATTERSON: Your Honor, I would ask that
8 Government's Exhibit 58-2 be admitted.

9 THE COURT: Any objection?

10 MR. CONTE: Yes, Your Honor.

11 THE COURT: I'm sorry?

12 MR. CONTE: I have an objection, Judge. May
13 we approach?

14 Can I confer with cocounsel?

15 THE COURT: Yes.

16 MR. PATTERSON: May I finish with my -- what
17 I was saying?

18 THE COURT: I thought you moved in the
19 exhibit.

20 MR. PATTERSON: I was moving it in, but I'd
21 ask not to publish it, Your Honor.

22 THE COURT: All right. Is there still an
23 objection?

24 MR. CONTE: May I consult?

25 THE COURT: Yes.

Blanco Torres - Direct

1 (Counsel confer.)

2 THE COURT: All right. Let me see counsel at
3 the bench.

4 (Conference at the bench, as follows:)

5 THE COURT: What's the objection?

6 MR. CONTE: Part of it is the document is
7 unredacted.

8 MR. MURPHY: With respect to the standard
9 Plea Agreement that we always use, including a
10 paragraph which refers to polygraphs as a request of
11 the government, that paragraph has been redacted from
12 all the federal Plea Agreements in this matter. It's
13 proprietary with respect to the government's agreement
14 with the defendants and also confidential with respect
15 to the defendants. The government would note that we
16 are not publishing the Plea Agreement.

17 THE COURT: I've seen a lot of Plea
18 Agreements that aren't under seal with that paragraph
19 in it. I'm not sure what's proprietary about it.

20 MR. MURPHY: Well, that's what's redacted.

21 THE COURT: Any other objection?

22 I'm not sure why you need these. He's pled
23 guilty to the cooperation agreement that --

24 MR. MURPHY: Well, we are going to discuss
25 terms and terms of that Plea Agreement, none of

Blanco Torres - Direct

1 which -- questions about the terms of that Plea
2 Agreement, none of which include the redacted portion,
3 Your Honor.

4 THE COURT: All right.

5 MR. CONTE: That's good cross-examination,
6 somebody agrees to a polygraph.

7 THE COURT: Well, I'm going to let the
8 exhibit in. I'm going to let them cross-examine about
9 what's in the redaction just so the jury isn't
10 speculating about it.

11 MR. KRISCHER: I'm sorry. I don't believe --
12 well, my concern is that he won't remember and whether
13 or not the government has an unredacted copy that can
14 be used.

15 THE COURT: Do you have one?

16 MR. MURPHY: Frankly, you can ask him if he's
17 been polygraphed, and he will tell you that he hasn't.

18 MR. CONTE: We can't ask him whether that was
19 part of his Plea Agreement because it's redacted.

20 THE COURT: I think you can make a
21 presentation of what's redacted.

22 Let me ask: What's the relevance of this
23 witness?

24 MR. MURPHY: This is racketeering. It's
25 relevant to the activity that the gang is involved in.

Blanco Torres - Direct

1 THE COURT: What murder is he going to talk
2 about?

3 MR. MURPHY: He is going to talk about
4 Christian's murder, Your Honor.

5 THE COURT: All right.

6 MR. KRISCHER: I will say, Judge, this was
7 the basis of why the original motions with regard to,
8 you know, a murder that's not involving this clique or
9 any of these codefendants -- at the time, the
10 foundation needs to be laid with regard to the
11 racketeering count. To the extent that they are going
12 to start talking about this, I don't believe -- they're
13 getting there but --

14 MR. MURPHY: We wanted to finish asking the
15 witness questions.

16 MR. KRISCHER: That's what I'm saying. With
17 regard to whether or not there's going to be an
18 objection, I certainly want to bring to the Court's
19 attention that this is one of the --

20 THE COURT: No. I understand.

21 It does seem to me, frankly, on what I've
22 heard so far, a little cumulative and sort of out of
23 the scope. I'm going to let you get into it, but I
24 want you to move through it quickly.

25 MR. MURPHY: Sure.

Blanco Torres - Direct

1 THE COURT: I'm not sure I'm going to allow
2 any of the photos in as to either of these two given
3 the photos you want to introduce as to the others. But
4 I think we can get through both of these two murders
5 pretty quickly if that's what these are for.

6 All right.

7 (Proceedings continued in open court, as follows:)

8 THE COURT: Counsel.

9 MR. PATTERSON: Your Honor, the government
10 would ask for this to be admitted into evidence but not
11 published.

12 THE COURT: Well, do you want it to go back
13 to the jury room as an exhibit?

14 MR. PATTERSON: Yes, Your Honor.

15 THE COURT: All right. Over objection, the
16 Court is going to admit Exhibit 58-2 with counsel's
17 representation as to what's on the redaction on page 6.
18 BY MR. PATTERSON:

19 Q When you pled guilty, did you agree to cooperate
20 with the government?

21 A Yes.

22 Q What does the government expect you to do with
23 respect to your cooperation under the agreement?

24 A To say the truth.

25 Q How many times have you testified at trial?

Blanco Torres - Direct

1 A This is the first.

2 Q Do you hope to get your sentence reduced from
3 life?

4 A Yes.

5 Q Has anyone made you any promises other than what's
6 set forth in your Plea Agreement?

7 A No.

8 Q If you cooperate with the United States and
9 testify truthfully, what do you hope will happen?

10 A Something better than the sentence that I have.

11 Q And who will actually determine your sentence?

12 A Judge.

13 Q Do you understand the judge will determine whether
14 any reduction in your sentence is appropriate?

15 THE INTERPRETER: Any objection what?

16 Q Do you understand that the judge will determine
17 whether any reduction in your sentence is appropriate?

18 A Yes.

19 Q Why did you join MS-13?

20 A As a reprisal for the burial of my father.

21 Q Before joining MS-13, what did you know about the
22 gang's involvement in criminal activity?

23 A Nothing.

24 Q What did you know about members of MS-13
25 committing acts of violence against other people?

Blanco Torres - Direct

1 A What's that?

2 Q Did you know about MS-13 committing acts of
3 violence against other people?

4 A Yes.

5 Q When you moved to Maryland, did you meet any other
6 members of MS-13?

7 A Yes.

8 Q Who did you meet?

9 A Are you talking about the names of other cliques,
10 or are you talking about the names of other people?

11 Q Who did you meet from Coronados in Maryland?

12 A Yaiko, Archangel, Cannabis, and Rasta.

13 Q In the two weeks before the murder to which you
14 pled guilty, how frequently did you hang out with
15 members of the Coronados clique?

16 A All the time every day.

17 Q Are you familiar with the term *paro*?

18 A Yes.

19 Q What is a *paro*?

20 A The people that carry out the favors for the
21 homies.

22 Q What kind of favors do *paros* do?

23 A Distribute marijuana in retail amounts.

24 Q And do they also sell cocaine?

25 MR. CONTE: Objection, leading.

Blanco Torres - Direct

1 THE COURT: I'll let him answer.

2 A Yes.

3 Q Where do *paros* get the money to buy the drugs?

4 MR. KRISCHER: Objection, Judge, with regard
5 to whether or not this is a Coronados clique, or is he
6 talking generally.

7 THE COURT: He's talking about the Coronados
8 clique, which is his experience.

9 Right?

10 MR. PATTERSON: That is correct.

11 BY MR. PATTERSON:

12 Q Where do *paros* get the money to buy the drugs?

13 A They don't get the money and stuff like that. The
14 homies, we hand them the drugs and everything.

15 Q And are you familiar with the term *chequeo*?

16 A Yes.

17 Q What is a *chequeo*?

18 A A trusted person by the homies and by the clique.

19 Q And what are the things that *chequeos* do?

20 A Control the area.

21 Q And were you a *chequeo*?

22 MR. WALSH: Judge, I object. He didn't get a
23 chance to answer.

24 THE COURT: Hold on. Do you want to answer?

25 MR. PATTERSON: I don't think you want the

Blanco Torres - Direct

1 answer.

2 THE COURT: All right. Go ahead.

3 Just listen to the next question.

4 Go ahead.

5 BY MR. PATTERSON:

6 Q Were you a *chequeo* in MS-13?

7 A Yes.

8 Q Are you familiar with the term "homeboy"?

9 A Yes.

10 Q What is a homeboy?

11 A A homeboy, he's an active member of the MS-13.

12 Q What does someone have to do to earn sufficient
13 status to become a homeboy?

14 A Kill, commit crimes.

15 Q And are you familiar with the term "first word"?

16 A Yes.

17 Q What is a first word?

18 A He is the leader of the clique in general.

19 Q Was there a first word in your clique, the
20 Coronados clique?

21 A Yes.

22 Q What was the name of this first word?

23 A Infierno.

24 Q Where was Infierno based? Where did he live?

25 A New York.

Blanco Torres - Direct

1 Q Are you familiar with the term "second word"?

2 A Yes.

3 Q What is a second word?

4 A They're the same. They do it together.

5 Q Do the first word and the second word work
6 together?

7 A Yes.

8 Q Was there a second word in your clique, in the
9 Coronados clique?

10 A Yes.

11 Q What was his name?

12 A El Cantinflas, and he is in jail in Mexico.

13 Q Are you familiar with the term "*corredor*"?

14 A Yes.

15 Q What does the *corredor* do?

16 A He coordinates all the events that are going to be
17 handed out.

18 Q Where does the *corredor* live? In what country
19 does the *corredor* live?

20 A In Maryland, there are a lot of *corredors*.

21 Q Are there *corredors* that live outside of the
22 United States?

23 A Yes.

24 Q After you joined MS-13, did you ever attend any
25 clique meetings?

Blanco Torres - Direct

1 A Yes.

2 Q How frequently did the clique meet in the United
3 States?

4 A Only once.

5 Q And how long were you here before you were
6 arrested?

7 A Ten months.

8 Q And generally, who attends clique meetings?

9 A Depends on the topics that need to be discussed.
10 In some meetings, there are just the homeboy, some with
11 just the *corredors*.

12 Q And what happened at the meetings?

13 A It's discussed everything they've been talking
14 about and talking about things that are going to be
15 done and eventually carried out in the future. And
16 also, to decide discipline, people that are not doing
17 it right.

18 Q And was money collected at these meetings?

19 A Sometimes yes; sometimes no.

20 Q Who was money collected from?

21 A Money comes from the homeboys for activities.

22 Q Was everyone in the gang required to pay this
23 money?

24 A What?

25 Q Was everyone in the gang required to pay this

Blanco Torres - Direct

1 money?

2 A No.

3 Q How much do gang members pay?

4 A We all put down \$50 if it was something that we
5 needed.

6 Q Who was the money sent to?

7 A To El Salvador.

8 Q And what else was the money used for?

9 A It was the cost of gas, more drugs, munitions.

10 Q On that last word, when you say munitions, what do
11 you mean?

12 A Bullets.

13 MR. CONTE: Can we get the foundation for
14 some of this?

15 THE COURT: Go ahead. Ask the next question.

16 BY MR. PATTERSON:

17 Q Did your clique have any guns?

18 A Yes.

19 Q Who do the guns belong to?

20 A In general, to the whole clique.

21 Q Could members of the clique use the guns?

22 A Yes.

23 Q When you were in MS-13 in the United States, did
24 your clique ever contact MS-13 members in El Salvador?

25 MR. CONTE: Objection, Your Honor.

Blanco Torres - Direct

1 MR. OATES: Objection.

2 THE COURT: I'm sorry. What was the
3 question?

4 MR. PATTERSON: The question was when you
5 were in MS-13 --

6 THE COURT: You need to lay a foundation.

7 MR. OATES: Thank you.

8 BY MR. PATTERSON:

9 Q You mentioned that money from the clique was sent
10 to El Salvador.

11 A Yes.

12 Q How did the clique communicate with MS-13 members
13 in El Salvador?

14 MR. OATES: Objection to the foundation
15 again, Your Honor.

16 THE COURT: Why don't you ask him how he
17 knows things before you ask him what it is.

18 BY MR. PATTERSON:

19 Q How do you know that the money was sent to
20 El Salvador?

21 A Well, we would send it to Western Union to people.

22 Q And did you directly contact people, MS-13
23 members, in El Salvador?

24 A Yes.

25 Q How would you do that?

Blanco Torres - Direct

1 A Through WhatsApp.

2 Q And did you have to get permission from
3 El Salvador to kill people in the United States?

4 MR. CONTE: Objection, leading.

5 THE COURT: I'll let him answer.

6 Go ahead.

7 A Yes.

8 Q Does MS-13 have rules?

9 A Yes.

10 Q What does it mean within MS-13 for someone to be
11 walking with an MS-13 gang member?

12 A When somebody withdraws and would like to recruit
13 him for the gang.

14 Q And how were you taught MS-13's rules?

15 A Excuse me?

16 Q How did you learn MS-13's rules?

17 A Because I lived together with the homies, and I
18 learned with them the different rules.

19 Q Does MS-13 have rules about cooperating with law
20 enforcement?

21 A Yes.

22 Q What happens to an MS-13 gang member who
23 cooperates with law enforcement?

24 A As soon as he's identified, he will be murdered.

25 Q And who identifies the individual?

Blanco Torres - Direct

1 A Anybody, a *paro*, a *chequeo*, a homeboy.

2 Q And have you been marked for death?

3 A Yes.

4 Q Why?

5 A Because I lost contact with them, and then they
6 thought I was cooperating with the agents.

7 Q And are MS-13 members expected to carry out
8 killings of people who are cooperating with law
9 enforcement?

10 A Yes.

11 Q What happens to an MS-13 gang member's reputation
12 if he kills someone who is perceived as being against
13 the gang?

14 A Well, he obtains more benefits, and he gains power
15 within the gang.

16 Q Is power an important thing in MS-13?

17 A Yes.

18 Q Are you familiar with the term "*calenton*"?

19 A Yes.

20 Q What is a *calenton*?

21 A Well, it's a beating for several seconds.

22 Q What's the purpose of a *calenton*?

23 A Well, to teach the person to behave, so he won't
24 do any mistakes.

25 Q Are you familiar with the term "*chavala*"?

Blanco Torres - Direct

1 A Yes.

2 Q What is a *chavala*?

3 A He is a member of another gang, the 18th Street
4 gang.

5 Q Is there a gang that MS-13 considers to be its
6 main rival?

7 A Yes.

8 Q What gang is that?

9 A The 18th Street and the Nortenos or Northerners.

10 Q What rules does MS-13 have about what a gang
11 member is supposed to do if they see a *chavala*?

12 A If he is in a place where he can get killed, then
13 they should kill him.

14 Q What happens to an MS-13 gang member's reputation
15 if he attacks a *chavala*?

16 A His reputation grows.

17 Q What happens to an MS-13 member if they see a
18 *chavala* and do not beat up or kill them?

19 A Well, there are two options. He didn't kill him
20 because he was in a crowded place where there were
21 children, or he didn't kill him because he did not want
22 to kill him, in which case he would be killed.

23 Q What rules does MS-13 have about people who
24 falsely represent that they are in MS-13?

25 A Well, sometimes they give him a *calenton* or a

Blanco Torres - Direct

1 beating. Some other times we kill him.

2 Q And is there a term for when someone pretends to
3 be MS when they're not?

4 A Yes.

5 Q What's that term?

6 A *Alucinado*.

7 Q Could you translate that into English?

8 A *Alucinado*.

9 Q And what rules does MS-13 have about an individual
10 disrespecting the gang?

11 A I did not understand. Could you rephrase the
12 question?

13 Q What happens if someone disrespects MS-13?

14 A They give him a *calenton*.

15 Q I'd like to direct your attention to the murder
16 you pled guilty to. What was the name of the person
17 who you helped murder?

18 A Christian Sosa Rivas.

19 Q Did you know anything about Christian before
20 participating in his murder?

21 A He was hallucinating. He was saying he was a
22 member of MS-13, but he wasn't.

23 Q And did you have any contact with Christian before
24 the murder?

25 A Yes.

Blanco Torres - Direct

1 Q What kind of contact did you have with him?

2 A Just to get to know him, to know who he was.

3 Q Why did you have contact with him initially?

4 A Because Katie Portillo was leaving with me, and he
5 was threatening Katie.

6 Q Why was he threatening her?

7 MR. KRISCHER: Objection, foundation.

8 THE COURT: Go ahead.

9 BY MR. PATTERSON:

10 Q Do you know why he was threatening her?

11 A Because before, they were friends. He would give
12 pounds of marijuana to Katie for her to sell, and she
13 lost.

14 Q Did you have any discussions with any other gang
15 members about Christian before the murder?

16 A Yes.

17 Q Who did you talk with?

18 A With members of the clique here and in
19 El Salvador.

20 Q And what did you ask the people that you were
21 talking to?

22 A Well, first, I asked whether he was a homie from
23 the gang, whether they knew him.

24 Q Were you investigating him?

25 A Yes.

Blanco Torres - Direct

1 Q Did you talk with any other cliques in the United
2 States about Christian?

3 A Yes.

4 Q Which ones?

5 A With Guanacos and the Virginians.

6 Q Who from Guanacos did you talk with?

7 A Fire was on the line.

8 Q And did you talk to anyone else from Guanacos?

9 A Well, did -- Jacob had other people on the line.
10 So they were there on the line.

11 Q And what did you discuss with the Guanacos?

12 A Well, to find out whether they knew him, and they
13 said no, that he was hallucinating.

14 MR. OATES: Objection, hearsay.

15 THE COURT: Hold on.

16 I'm going to allow it. Overruled.

17 A And he had a green light already through the
18 program called East Coast.

19 Q When you say he, who do you mean?

20 A Christian.

21 Q Did you do any other investigation besides what
22 you've mentioned of Christian?

23 A Yes.

24 Q What other investigation did you do?

25 A We talked about another person nicknamed Killer.

Blanco Torres - Direct

1 He was the runner for Christian supposedly.

2 Q And where was Killer based?

3 A In El Salvador.

4 Q And what did you find out from Killer?

5 A No. We realized he was also making himself.

6 Q What did you decide after you had done this
7 investigation of Christian?

8 A Well, I spoke with my homeboys to what we are
9 going to do about it.

10 Q What did you decide to do?

11 A We decided to kill him on December 31.

12 Q And did you talk with anyone who knew Christian
13 when you were planning how to kill him?

14 A Yes, Rasta, Archangel, Cannabis.

15 Q Did you talk to anyone who is not in MS-13?

16 A Yes.

17 Q Who did you talk to?

18 A Katie Portillo and Angelica Blanco.

19 Q Why did you talk with Angelica Blanco?

20 A Because Christian was text messaging Angelica, and
21 Angelica said --

22 MR. KRISCHER: Objection.

23 THE COURT: I'm going to allow it.

24 I think we need to get through this and get
25 to the facts that you want to bring out.

Blanco Torres - Direct

1 BY MR. PATTERSON:

2 Q Did Angelica help you?

3 A Yes.

4 Q Do you know why? Did she tell you why she wanted
5 to help you?

6 MR. KRISCHER: Objection, Judge.

7 THE COURT: Sustained.

8 Hold on.

9 Go ahead. Next question.

10 BY MR. PATTERSON:

11 Q I would like to go to the day of the murder. What
12 time of day did the murder take place?

13 A At 9:30 or 10:00 p.m.

14 Q I would like to start earlier in the day. Where
15 were you earlier that day?

16 A I was in Woodbridge in the house of our homies.
17 They called me Joker.

18 Q Who was there with you?

19 A All of those who are involved in my case.

20 Q Did you discuss what you intended to do to
21 Christian that night?

22 A Yes.

23 Q Where did you go in the afternoon?

24 THE INTERPRETER: Excuse me?

25 MR. PATTERSON: Where did he go in the

Blanco Torres - Direct

1 afternoon?

2 A I went to the place where the murder was going to
3 take place.

4 Q And why did you go there?

5 A To see whether it was a safe place where nobody
6 could see us.

7 Q And what did you decide?

8 A That it was the place where it was going to take
9 place.

10 Q Did you call anyone that afternoon?

11 A Yes.

12 Q Who did you call?

13 A I called several people, but I'd been talking also
14 with the homeboys over in El Salvador.

15 Q What were their names?

16 A Whisper, Sniper, Tiger, City Gangster.

17 Q Did you say Whisper?

18 A Yes.

19 Q And what were their ranks in MS-13?

20 A Sniper was the first word of the clique.

21 Q And what rank was Whisper?

22 A He was a regular homeboy.

23 Q Did you tell Whisper anything?

24 A Yes.

25 Q What did you tell him?

Blanco Torres - Direct

1 A That I was going to deliver Christian that night
2 to them.

3 Q And did Whisper tell you anything?

4 A Yes.

5 Q What did he tell you?

6 A That we should kill him.

7 Q Where did you go next?

8 A We went to the place where we met to vent and get
9 Christian.

10 Q How did you get to the -- I think you mentioned a
11 second ago that this was a park. Is that right?

12 A Yes, it's like a park.

13 Q What state was it in?

14 A In Virginia.

15 Q How did you get to the park?

16 A Well, they just sent me the address, and I went
17 out there.

18 Q How did you get there? Did you walk?

19 A In a car together with Katie, myself, Slaker, and
20 Cannabis.

21 Q When you got there, was anyone else there?

22 A Yes.

23 Q Who else was there already?

24 A Katie Blanco and Christian, and in another car,
25 Rasta and Archangel.

Blanco Torres - Direct

1 Q Who was riding in your car?

2 A Slaker.

3 Q Did you give Slaker any instructions?

4 A Yes.

5 Q What did you say?

6 A We were going to go there, but he already knew
7 what we were going to do.

8 Q And when you got there, did you tell him anything?

9 A Yes.

10 Q What happened once he got there?

11 A The group I was in, we went to another area. It
12 was darker. It was like a beach, like a lake.

13 Q Did you bring anything with you?

14 A Well, in my hands, I didn't have anything, but my
15 group, yes, they had.

16 Q What did they have?

17 A Cannabis had a machete, also a knife. Slaker and
18 I, we had also knives --

19 THE INTERPRETER: And something else. I
20 can't understand him.

21 BY MR. PATTERSON:

22 Q Can you say it again, what you had?

23 A Oh, and something to clean your fingerprints.

24 Q And you said that you and your group were a little
25 way away from Angelica and Christian, correct?

Blanco Torres - Direct

1 A Yes.

2 Q Why did you go there?

3 A So that Christian would trust me, be more
4 trustful, and walk down towards the lake.

5 Q And what happened next?

6 A So when Christian was down by the lake, I went
7 near him together with Slaker. So just to trust -- you
8 know, to make him trust us, I asked him whether he had
9 some marijuana to sell me.

10 Q And what happened next?

11 A Well, he said he had a little bit that we could
12 smoke together.

13 Q And what happened next?

14 A We went towards the rest of us, and we smoked.

15 Q Where was Katie?

16 A She was a little behind the group.

17 Q And why was Katie a little behind the group?

18 A We didn't want Christian to see her. Because if
19 Christian saw her, he would get scared, and he would
20 leave.

21 Q Why did you think he would get scared if he saw
22 Katie?

23 MR. KRISCHER: Objection.

24 THE COURT: I'll let him answer.

25 Go ahead.

Blanco Torres - Direct

1 A Because he knew that Katie lived with gang members
2 of MS-13.

3 MR. KRISCHER: Objection, again, Judge. I
4 apologize.

5 THE COURT: No. I understand.

6 Overruled. Go ahead.

7 Let's get through this, please.

8 BY MR. PATTERSON:

9 Q What happened next?

10 A Well, Christian was about to leave. Slaker then
11 caught him, and we start killing him.

12 Q And did anyone else join the attack?

13 A Well, it's only the guys that I already told you
14 about, and Katie and Angelica had left when it all
15 started.

16 Q And what did you do?

17 A So I punched him on the head so that he would
18 fall, and then we started to kill him.

19 Q What did you do when you thought Christian was
20 dead?

21 THE INTERPRETER: Your Honor, it seems the
22 battery is low on this thing.

23 THE COURT: I'm sorry?

24 THE INTERPRETER: It seems like the battery
25 is low on this thing. The red light is on.

Blanco Torres - Direct

1 THE COURT SECURITY OFFICER: Let me see it.

2 It needs to be changed tomorrow, sir. We can
3 get through this today.

4 THE COURT: All right.

5 BY MR. PATTERSON:

6 Q What did you do to Christian after you thought he
7 was dead?

8 A I grabbed him by the feet, and I dragged him to
9 the water. Then I lowered some rocks on top of his
10 body so he wouldn't float.

11 Q After the murder, did you call anyone that night?

12 A Yes.

13 Q Who did you call first?

14 A The homeboy Infierno, who was in New York.

15 Q And were you able to reach him?

16 A No.

17 Q Why did you call him?

18 A To let him know what the clique had accomplished
19 that day.

20 Q Did you call anyone else?

21 A The homeboys in El Salvador.

22 Q What was his name?

23 A Whisper.

24 Q Why did you call Whisper?

25 A To tell him Christian was dead.

Blanco Torres - Direct

1 Q And what did you tell him -- why did you call him
2 to tell him that?

3 A He was going to give out alerting to the homeboys
4 of the hood, the neighborhood, telling them that we
5 already killed the guy.

6 Q Did you tell the leaders of your gang how the
7 murder actually took place?

8 A Yes.

9 Q And what did Whisper tell you?

10 A He was very happy. It was good.

11 Q And after the murder, what did you do with your
12 phone?

13 A I broke it apart, and I threw it away.

14 Q Why?

15 A So that it couldn't be found.

16 Q And did you remain in Virginia after that night?

17 A No.

18 Q Where did you go?

19 A Landover, Maryland, where I was living.

20 Q Why did you go there?

21 A Well, that's where I lived was right there.

22 Q And how did you get to Maryland?

23 A In Slaker's car.

24 Q And how did you get into police custody?

25 THE INTERPRETER: Pardon me? How did he get

Blanco Torres - Cross

1 in police custody?

2 MR. PATTERSON: Yes.

3 A I was working at a construction site in
4 Pennsylvania, and they arrested me there.

5 Q How long were you in Maryland before you were
6 arrested?

7 A Two months.

8 MR. PATTERSON: Thank you. I have no further
9 questions.

10 THE COURT: All right. Which counsel will
11 begin?

12 CROSS-EXAMINATION

13 BY MR. WALSH:

14 Q Mr. Torres, I'm going to go back a little bit and
15 ask you some questions. Okay.

16 So I understand you joined the gang when you were
17 14; is that correct?

18 A Yes.

19 Q And that was in El Salvador, correct?

20 A Yes.

21 Q Okay. And was that the Coronados gang?

22 A It was Guanacos Lil Cycos.

23 Q Okay. And then it's your testimony you came to
24 the United States in 2016, correct?

25 A Yeah.

Blanco Torres - Cross

1 Q And when you came to the United States, you went
2 to Maryland, correct?

3 A Yes.

4 Q And were you still with the gang at that time?

5 A Yes.

6 Q And that's when you told this jury you began to
7 live with gang members, correct?

8 A Right.

9 Q But you testified to the jury that you went to
10 rehab for drugs, correct?

11 A Yes.

12 Q Can you tell me when that was?

13 A 2011-2012, towards the end of 2012.

14 Q So you went to rehab for drugs while you were in
15 El Salvador?

16 A Yes.

17 Q All right. But then you returned back to the same
18 gang, correct?

19 A Yes.

20 Q Let me ask you a question. You told this jury you
21 have pled guilty, and you have a life sentence,
22 correct?

23 A Yes.

24 Q Is it two life sentences?

25 A One.

Blanco Torres - Cross

1 Q Okay. And the crime you admitted to was a
2 mandatory life sentence, correct?

3 A Yes.

4 Q So when you tell the jury that the judge sentenced
5 you, really, it was the prosecution that charged you
6 with a mandatory life sentence, correct?

7 A Yes.

8 Q Right. Because you pled guilty, you had to get a
9 mandatory life, correct?

10 A Yes.

11 Q And that's what they charged you with, correct?

12 A Yes.

13 Q Now, let me ask you a question. When you are a
14 member of MS-13, you get tattoos, correct?

15 A Yes.

16 Q Do you ask permission to get the MS-13 tattoos?

17 A Yes.

18 Q And you have MS-13 tattoos, correct?

19 A I do have tattoos, but they're not MS-13 tattoos.

20 Q You don't have any MS-13 tattoos on your body?

21 A No.

22 Q Or anything that symbolizes the gang?

23 A No.

24 Q We talked about *paros*. *Paros* are not in the gang;
25 are they?

Blanco Torres - Cross

1 A No.

2 Q But *paros* sell drugs for the gang, correct?

3 A Yes.

4 Q And when I say drugs, I mean cocaine and
5 marijuana.

6 A Yes.

7 Q But they are not gang members?

8 A No.

9 Q But if you're considered a *paro*, you have to
10 follow what the gang asks you or requires you to do,
11 correct?

12 A Yes.

13 Q Do you -- as a gang member, do you identify who
14 you are going to make a *paro* of?

15 A Yes.

16 Q Yes. Okay. So if a *paro* who is not a gang member
17 decides not to do something, he's going to get a
18 beatdown, is that right, or she?

19 A Yes.

20 Q And a beatdown, that could be like a 13-second
21 beatdown?

22 A No.

23 Q Okay. It's a discipline, though, correct?

24 A Yes.

25 Q And it could be anything from a beating to

Blanco Torres - Cross

1 something else; is that correct?

2 A It could be 16 strikes with a bat, 7 strikes with
3 a bat, 14 strikes with a bat. It depends on what the
4 seriousness of the offense was.

5 Q I was going light then. I was just thinking it
6 was 13 punches, but you could be hit with a bat 14, 16
7 times?

8 A You can use a bat and a fist.

9 Q And it's safe to say, generally, the *paros* are the
10 ones that are selling the drugs for the gang, the lower
11 ones, correct?

12 A Yes.

13 Q And the reason why is the ones who are ranked up
14 high, they don't want to be involved with getting
15 caught selling drugs, correct?

16 A Exactly.

17 Q *Paros* don't only sell drugs. They also are used
18 to drive people around, gang members around, correct?

19 A Yes.

20 Q It's safe to say that if a *paro* doesn't drive a
21 gang member that the gang member tells him to do, then
22 there's discipline?

23 A Sure.

24 Q I didn't hear.

25 A Yes.

Blanco Torres - Cross

1 Q Okay. When you joined the gang in El Salvador,
2 you didn't know the rules before you joined; did you?

3 A Yes.

4 Q How many rules are there?

5 A There's an awful lot of rules.

6 Q And those rules differ from one clique to another
7 clique, correct?

8 A Some of them.

9 Q Okay. Some of them. So --

10 A Yes.

11 Q So different cliques can have different rules,
12 correct?

13 A Yes.

14 Q And it's safe to say some cliques might not have
15 any rules, correct?

16 A No, not a single clique has no rules. All have
17 some rules.

18 Q It's safe to say you don't know what each clique's
19 rules are, though, correct?

20 A No.

21 Q So when you talk about the rules of a *chavala* and
22 things like that, you are referring to your clique,
23 correct?

24 A That's a general rule for the entire MS gang.

25 Q That's your understanding, but you are not in all

Blanco Torres - Cross

1 of those other cliques to know that, correct?

2 A The difference in the rules between cliques are
3 not that great.

4 Q The difference in the rules between cliques are
5 not that great; is that what you said?

6 A No. It's almost the same.

7 Q But like I said, you have never been in all of
8 those other cliques?

9 A Right.

10 Q Okay. Your testimony for the government said that
11 you were calling to El Salvador. Is that right?

12 A Yes.

13 Q Well, isn't it someone who is ranked up high that
14 has the privilege to call El Salvador?

15 A Yes.

16 Q Okay. So a *paro* or someone lower would not be
17 allowed to call El Salvador, correct?

18 A Yes, he could.

19 Q Does he have to get permission from the first
20 word?

21 A They all have a -- if there's only one *paro* in the
22 clique or something, he can call his homeboy in
23 El Salvador.

24 Q You testified walk with MS-13 gang member. That
25 is someone that MS is trying to recruit?

Blanco Torres - Cross

1 A Yes.

2 Q How long would you generally walk with a person?
3 What duration?

4 A Performing it could be three years, five years.

5 Q So you could walk with someone for three to five
6 years before they even become part of the gang?

7 A Yes.

8 Q And during that time, do you -- well, let me
9 strike that.

10 You walk with them to investigate them; is that
11 correct?

12 A Yes.

13 Q To see if they are trusted, right?

14 A Yes.

15 Q If someone was walking with you for a year and
16 they decide they didn't want to walk anymore, they
17 could get a beating, correct?

18 A If he knows too much or if he knows about the
19 plans that the homeboys have carried out, the homeboys
20 will kill him.

21 Q But as someone that's walking with the gang, the
22 gang is not going to -- strike that.

23 Let me ask you. Let me take you to December 31,
24 2016.

25 A Okay.

Blanco Torres - Cross

1 Q You had been in the United States for ten months;
2 is that your testimony?

3 A Yes.

4 Q And so you only had one meeting during that time,
5 correct?

6 A Yes.

7 Q But you had joined the same gang that you were in
8 in El Salvador -- excuse me, the same clique you were
9 in in El Salvador?

10 A Yes.

11 Q If you decided not to go with that clique when you
12 came to the United States, would your family be in
13 danger?

14 A Yes.

15 Q And you had testified for the government those
16 people that were involved in the murder on December 31,
17 2016, correct, the names of those people?

18 A Yes.

19 Q Roberto Cruz Moreno was not one of them, correct?

20 A I don't recognize the name, no.

21 Q So you can say you've never had any dealings with
22 Roberto Cruz Moreno, correct?

23 A I don't know the name. I don't know.

24 Q Okay. In the clique or in MS-13, it's not
25 uncommon for members to have the same name, correct,

Blanco Torres - Cross

1 like Scooby or Killer?

2 A Not in the same clique. It could be little
3 something or a big something.

4 Q But in separate cliques, members in separate
5 cliques, members could have the same name, like Killer
6 or, you know, Snappy or Grumpy or --

7 A Yes. Yes.

8 Q You testified that you have a green light,
9 correct?

10 A Yes.

11 Q How do you know that?

12 A I'm being held, and I hear what the other gang
13 members told me about at the detention center.

14 Q Aren't you in protective custody?

15 A Yes.

16 Q So while you were in protective custody, the
17 people you are with are talking about the green light?

18 A Yes. Yeah, you can hear them. They are all
19 jumbled up.

20 Q Can you tell me who's talking about you?

21 A The whole clique.

22 Q Your clique, right?

23 A Yeah, the homies from other cliques that I've met.

24 Q The government asked you questions about you
25 wanting to have your sentence reduced from a life

Blanco Torres - Cross

1 sentence, a mandatory life sentence, correct?

2 A They asked me what?

3 Q So the government -- you testified that you were
4 hoping to have your sentence from a mandatory life
5 sentence reduced; is that correct?

6 A Yes.

7 Q And you're hoping to stay in the United States,
8 correct?

9 A Yes.

10 Q And because of that, you've been working with the
11 government, correct?

12 A Basically, a meeting to be honest. I'm trying to
13 come clean. I realize I made a mistake. I'm trying to
14 clean the mistake up or correct it. But yes, what you
15 are saying is also in the back of my mind.

16 Q Let's talk about that. You prepared your
17 testimony with the government, correct?

18 A Yes.

19 Q And you worked on that answer; didn't you?

20 A No.

21 Q That just came from you?

22 A Yes.

23 Q You understand to get your sentence of mandatory
24 life reduced, the government has to file a motion
25 asking for it, correct?

Blanco Torres - Cross

1 A Yes.

2 Q So you have to please them before they file a
3 motion to let the Court reduce your sentence, correct?

4 MR. PATTERSON: Objection.

5 THE COURT: Overruled.

6 A I don't know what you're getting at.

7 Q I'm going to ask the question again. Maybe I'll
8 change it. You have to satisfy the government before
9 they file a motion to reduce your sentence, correct?

10 A I am sorry that -- my testimony -- and I feel I
11 think something is going to happen.

12 Q And that something that's going to happen is that
13 they're going to try to reduce your sentence, correct?

14 A Yes.

15 MR. WALSH: Judge, that's all the questions I
16 have for him, I think.

17 THE COURT: All right. Mr. Conte.

18 MR. CONTE: Just a couple of questions.

19 CROSS-EXAMINATION

20 BY MR. CONTE:

21 Q Good afternoon, sir. You signed a cooperation
22 agreement with the United States, correct?

23 A Yes.

24 Q How many times have you met with them?

25 A Not too many times.

Blanco Torres - Cross

1 Q Well, more than five? Less than five?

2 A No. Not more than five, no.

3 Q And you went over your testimony, correct?

4 A What we were talking about?

5 Q How many times did you go through your testimony?

6 A Once before today.

7 Q All right. And you testified -- when

8 Mr. Patterson asked you what is expected of you, you

9 testified to tell the truth, correct?

10 A Right.

11 Q That's what you were told to say; isn't this

12 correct?

13 A Yes.

14 MR. CONTE: Thank you.

15 Nothing further, Your Honor.

16 THE COURT: All right. Mr. Oates.

17 MR. OATES: Your Honor, may we approach

18 briefly?

19 THE COURT: Yes.

20 (Conference at the bench, as follows:)

21 THE COURT: All right. What's the issue?

22 MR. OATES: Your Honor, I think that my cross

23 is probably going to be about 10 or 15 minutes. I

24 think Mr. Krischer is probably going to be the same.

25 We would ask -- I think it may be better to start fresh

1 tomorrow morning.

2 THE COURT: All right. Well, I didn't want
3 to keep the jury past 6:00 on the first day anyway.
4 We'll take it up in the morning.

5 MR. OATES: I do have -- before we leave, I
6 do have a couple of brief questions based on something
7 that just happened.

8 MR. WALSH: We'll talk about it.

9 MR. OATES: All right.

10 THE COURT: We'll go ahead and do it in the
11 morning.

12 MR. OATES: Thank you.

13 (Proceedings continued in open court, as follows:)

14 THE COURT: Ladies and gentlemen, it's been a
15 long day for you on the first day. We're going to
16 recess now until tomorrow morning. Please make
17 whatever travel arrangements you need to make. Try to
18 get to the courthouse around 9:20 or so, so we can
19 start at 9:30 absent anything that we might have to
20 deal with before then.

21 Again, I ask you not to discuss this case not
22 only among yourselves but with anyone outside of the
23 courtroom. I'm sure your family and friends will be
24 curious, to say the least, about how you spent your
25 day. If they ask questions about the case, then tell

1 them the judge has instructed you not to talk about it.

2 So with those instructions, you are excused
3 until tomorrow morning.

4 THE COURT SECURITY OFFICER: Sir, what time
5 do they need to be here tomorrow?

6 THE COURT: At 9:00 for the lawyers and 9:30
7 for the jury.

8 (The jury exits at 5:58 p.m.)

9 THE COURT: Mr. Torres, you're excused until
10 tomorrow morning. Do not discuss your testimony during
11 the recess.

12 All right. Let me just make an observation.
13 We've heard a lot already about the MS-13 structure and
14 organization, and the Court is not going to want a lot
15 of duplicative or cumulative evidence on that. So I'd
16 appreciate your bearing that in mind as you prepare the
17 rest of your witnesses.

18 MR. MURPHY: The government would ask, Your
19 Honor -- many of the arguments that the Court heard
20 during opening were with respect to the government's
21 witnesses lying, Your Honor. To the extent the
22 government would like to corroborate what its witnesses
23 were saying, we would ask some leeway to be able to --

24 THE COURT: I understand. There will be some
25 leeway, but I don't want multiple witnesses simply

1 saying the same thing we've already heard. Some
2 things, I suspect, are not going to be challenged as
3 much as others.

4 MR. MURPHY: Understood.

5 THE COURT: All right. We'll stand in recess
6 until 9:00. We'll meet at 9:00 to take up any issues.

7 The Court will stand in recess.

8 -----
Time: 6:00 p.m.

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I certify that the foregoing is a true and
accurate transcription of my stenographic notes.

/s/
Rhonda F. Montgomery, CCR, RPR